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File Title:	FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS
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A handwritten signature in blue ink that reads "Sia Lagos".

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Form 59
Rule 29.02(1)

Affidavit

No. 527 of 2024

Federal Court of Australia
District Registry: New South Wales
Division: General

FORTESCUE LIMITED ACN 002 594 872 and others
Applicants

ELEMENT ZERO PTY LIMITED ACN 664 342 081 and others
Respondents

Affidavit of: **Rebecca Mary Dunn**
Address: Level 35, International Tower Two, 200 Barangaroo Avenue
Barangaroo NSW 2000
Occupation: Solicitor
Date: 29 April 2025

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I **Rebecca Mary Dunn** of Level 35, International Tower Two, 200 Barangaroo Avenue
Barangaroo NSW 2000, Solicitor, say on oath:

Introduction

- I am a partner of Gilbert + Tobin Lawyers, and I have day-to-day carriage of this matter for the First, Second and Fourth Respondents (the **Element Zero Respondents**) with

Filed on behalf of (name & role of party) The First, Second and Fourth Respondents
Prepared by (name of person/lawyer) Michael John Williams, Partner
Law firm (if applicable) Gilbert + Tobin
Tel (02) 9263 4271 Fax (02) 9263 4111
Email mwilliams@gtlaw.com.au
Address for service Level 35, International Tower Two
(include state and postcode) 200 Barangaroo Avenue, Barangaroo NSW 2000

Michael Williams, the solicitor for the Element Zero Respondents. I have sworn four previous affidavits in these proceedings.

2. I make this affidavit from my own knowledge unless indicated to the contrary. Where I rely on information provided to me from other sources, I have identified the relevant source and believe that information to be true and correct.
3. In making this affidavit, I do not waive or intend to waive – nor am I authorised to waive – privilege in any communication between Element Zero Respondents and their external legal representatives, including any privileged advice, work product or work undertaken by lawyers of Gilbert + Tobin in connection with these proceedings.
4. Exhibited to me at the time of swearing this affidavit is a bundle of documents marked “**Exhibit RMD-3**” to which I refer below. A reference to a page number of Exhibit RMD-3 is a reference to the document on the corresponding page of Exhibit RMD-3.
5. I make this affidavit in relation to the proposed deadline for the Applicants to comply with order 3 of the orders made 26 February 2025 (**Discovery Orders**).

Background and Party / Party Correspondence

6. On 6 February 2025 and 20 February 2025, the proceedings were listed for hearing of the parties’ discovery applications. On 26 February 2025, the Court made the Discovery Orders, which are reproduced at pages 2 to 18 of **Exhibit RMD-3**.
7. The Discovery Orders provided, inter alia:
 3. On a date to be determined, each of the applicants give non-standard discovery pursuant to rr 20.15 to 20.17 of the Rules of all documents within the categories set out in Schedule 3 and Schedule 4 to these Orders; except that compliance with r 20.17(2)(a) is not required insofar as the documents are to be identified by reference to the relevant discovery category/categories, as noted in Schedule 3 and Schedule 4.
 4. The applicants are to undertake the steps set out in paragraphs 21(b)-(d) of the unsworn affidavit of Paul Alexander Dewar which appears at Annexure ARC-1 to the affidavit of Ashley Robert Cameron sworn 19 February 2025 (**Steps**) by 19 March 2025 in respect of those custodians that the applicants consider would comply with their reasonable search obligations including having regard to:




(a) the 27 custodians identified by the First, second and fourth respondents' solicitors' letter dated 24 February 2025 in response to the applicants' solicitors' letter dated 21 February 2025; and

(b) the six custodians identified by the third respondent's solicitors email dated 26 February 2024, (**Custodians**).

5. By 5.00 pm on 19 March 2025, the applicants are to notify the respondents of:

(a) the number of documents resulting from the Steps in respect of the Custodians; and

(b) an estimated time required to comply with Order 3.

8. On 21 March 2025, at the request of the Applicants, the Discovery Orders were varied to extend the deadline for compliance with orders 4 and 5 of the Discovery Orders to 2 April 2025.

9. On 2 April 2025, Davies Collison Cave sent a letter to Gilbert + Tobin and MinterEllison, pursuant to order 5 of the Discovery Orders. A copy of this letter, with its enclosure, is reproduced at pages 19 to 26 to **Exhibit RMD-3**. This letter stated that:

(a) The total number of documents resulting from the Steps in respect of the custodians identified by the Respondents is: 42,393 documents in respect of EZIA category 1; and 235,097 documents in respect of EZIA category 2, as well as approximately 10,000 documents sourced from document repositories, producing a total of 277,490 documents in respect of categories 1 and 2. The Applicants do not know at this stage how many (if any) of these documents actually fall within the scope of EZIA categories 1 and 2. The Applicants estimate that they require 8.5 months to provide discovery under EZIA Categories 1 and 2.

(b) There are over 65,000 documents that may be relevant to EZIA Categories 3,5,6,8,10 and 3RIA Categories 2 and 5, although the Applicants do not know at this stage how many (if any) of these documents actually fall within the scope of these categories. The Applicants estimate that they require 3.5 months to provide discovery under EZIA Categories 3, 5, 6, 8, 10 and 3RIA 2 and 5.

(c) If the words "and/or Fortescue" were removed from EZIA category 2, the pool of potentially responsive documents would narrow to 30,062 (meaning the total number of potentially relevant documents in relation to categories EZIA 1 and 2 becomes

72,455). The Applicants proposed that proposed that EZIA Category 2 be amended as follows:

Documents recording the Ionic Liquid R&D Information and any research or development work undertaken in relation to Ionic Liquid R&D by the Second Respondent or the Third Respondent ~~and/or Fortescue~~ during the period from 25 March 2019 to 12 November 2021, including approvals of research, research instructions, work undertaken, target timescales for that work, funding approvals and budgets and invoices for equipment and products used in such processes.

10. The proposed orders enclosed with Davies Collison Cave's letter dated 2 April 2025 (which appear at pages 24 to 26 of **Exhibit RMD-3**) sought the following orders:

1. Discovery Category 2 in Schedule 3 to the orders dated 26 February 2025 (Orders) be amended to delete the words "and/or Fortescue", and add "or" after the words "Second Respondent" so the category reads as follows:

"Documents recording the Ionic Liquid R&D Information and any research or development work undertaken in relation to Ionic Liquid R&D by the Second Respondent or the Third Respondent ~~and/or Fortescue~~ during the period from 25 March 2019 to 12 November 2021, including approvals of research, research instructions, work undertaken, target timescales for that work, funding approvals and budgets and invoices for equipment and products used in such processes".

2. The dates on which the Applicants are to give discovery pursuant to order 3 of the Orders are:

- (b) 19 July 2025 for documents within categories 3, 5, 6, 8 and 10 of Schedule 3 to the Orders (EZ Categories) and category 2 of Schedule 4 to the Orders;

- (c) 12 September 2025 for documents within categories 1 and 2 of the EZ Categories.

3. The matter be listed for a case management hearing at 9.30 am on a day during the period 17-20 June 2025.

11. On 3 April 2025, Gilbert + Tobin sent a letter to Davies Collison Cave. Copies of Gilbert + Tobin's letter dated 3 April 2025 and proposed orders are reproduced at pages 27 to 34 of **Exhibit RMD-3**. This letter confirmed that:




- (a) The Element Zero Respondents are willing to agree to the Applicants' proposed amendment to EZIA Category 2, however, they do not read the proposed deletion of the words "and/or Fortescue" to exclude the work undertaken by "other employees", or to narrow the meaning of Ionic Liquid R&D or Ionic Liquid R&D Information (which are defined by reference to the Further Amended Statement of Claim). The Element Zero Respondents reserve the right to press discovery in its present form if they consider it necessary to do so after the Applicants have completed their evidence.
- (b) However, the Element Zero Respondents do not agree to the proposed timetable.
12. The orders enclosed with Gilbert + Tobin's letter dated 3 April 2025 (which appear at pages 32 to 34 of **Exhibit RMD-3**) proposed the following orders:
1. Discovery Category 2 in Schedule 3 to the orders dated 26 February 2025 (Orders) be amended to delete the words "and/or Fortescue", and add "or" after the words "Second Respondent" so the category reads as follows:

"Documents recording the Ionic Liquid R&D Information and any research or development work undertaken in relation to Ionic Liquid R&D by the Second Respondent or the Third Respondent ~~and/or Fortescue~~ during the period from 25 March 2019 to 12 November 2021, including approvals of research, research instructions, work undertaken, target timescales for that work, funding approvals and budgets and invoices for equipment and products used in such processes".
 2. The Applicants are to give discovery pursuant to order 3 of the Orders by 18 July 2025.
 3. The Applicants file and service evidence in chief by 31 July 2025.
 4. The matter be listed for a case management hearing at 9:30am on during the week commencing 4 August 2025.
13. On 8 April 2025, Davies Collison Cave sent a letter to Gilbert + Tobin and Minter Ellison. This letter proposed to send consent orders to the Court to amend EZIA Category 2 only, and did not respond to Element Zero Respondents' proposed orders (including the proposed timetable for giving discovery and filing evidence). A copy of this letter is reproduced at pages 46 to 47 of **Exhibit RMD-3**, and the orders proposed by the Applicants are reproduced at pages 48 to 49 of **Exhibit RMD-3**.

14. On 17 April 2025, Gilbert + Tobin sent a letter to Davies Collison Cave, requesting confirmation of the Applicants' position on the Element Zero Respondents' proposed orders. A copy of this letter is reproduced at pages 50 to 52 of **Exhibit RMD-3**.
15. On 23 April 2025, Davison Collison Cave sent a response to Gilbert + Tobin, which stated that the Applicants:
 - (a) are not in a position to give discovery by 18 July 2025. The Applicants estimate that they require until 18 July 2025 to give discovery pursuant to EZIA categories 3, 5, 6, 8 and 10; and 12 September 2025 to give discovery pursuant to EZIA categories 1 and 2 (as amended).
 - (b) do not agree to an order requiring them to file evidence in chief by 31 July 2025 and are not in a position to provide any estimate as to the time they require to prepare their evidence without reviewing the Respondents' discovery.
16. A copy of this letter appears at pages 54 to 55 of **Exhibit RMD-3**.
17. On 28 April 2025, Davies Collison Cave sent an email to Gilbert + Tobin and MinterEllison attaching proposed orders, which the Applicants intend to seek at the case management conference on 30 April 2025. A copy of the email and proposed orders (**Applicants' Proposed Orders**) are reproduced at pages 56 to 63 **Exhibit RMD-3**.
18. On 28 April 2025, Gilbert + Tobin sent an email to Davies Collison Cave, which:
 - (a) Confirmed that the Element Zero Respondents do not consent to the Applicants' Proposed Orders; and
 - (b) Attached proposed orders which the Element Zero Respondents intend to seek at the case management conference on 30 April 2025 (**Element Zero Respondents' Proposed Orders**).
19. A copy of Gilbert + Tobin's email and the Element Zero Respondents' Proposed Orders are reproduced at pages 64 to 67 of **Exhibit RMD-3**.

The Applicants' estimate of time required to provide discovery

20. As set out above, the Applicants have estimated that they require:
 - (a) Until 19 December 2025 to provide discovery under EZIA Categories 1 and 2, if EZIA category 2 is not amended to remove the words "and/or Fortescue". In other words,




the Applicants estimate that they require 8.5 months (from 3 April 2025) to review 277,490 documents;

- (b) Until 18 July 2025 to provide discovery under EZIA Categories 3, 5, 6, 8 and 10. In other words, the Applicants estimate that they require 3.5 months (from 3 April 2025) to review 65,000 documents; and
- (c) Until 12 September 2025 to provide discovery under EZIA Categories 1 and 2, if EZIA category 2 is amended to delete the words "and/or Fortescue". In other words, the Applicants estimate that they require over 6 months (or 3 months from 18 July 2025 when discovery in (b) is completed) to review 72,455 documents.

21. I observe that the estimates appear to be inconsistent with previous estimates given by Davies Collison Cave. In particular:

- (a) The affidavit of Paul Alexander Dewar sworn 29 November 2024 indicated that the Applicants would require 3 months to review 100,000 potentially relevant documents.
- (b) The unsworn affidavit of Paul Alexander Dewar which appears at Annexure ARC-1 to the affidavit of Ashley Robert Cameron sworn 19 February 2025 indicated that the Applicants would require 5 months to review 1,000,000 potentially relevant documents.

Basis for Davies Collison Cave's estimate

- 22. For the purposes of preparing this affidavit, I have provided Davies Collison Cave's letter dated 3 April 2025 to Mr Michael Song, a lawyer employed by Gilbert + Tobin and Head of GT Docs (Gilbert + Tobin's document review team). Mr Song has over 17 years' experience as a lawyer and legal review manager and has extensive experience managing and coordinating document review teams.
- 23. The Applicants have not provided detailed information about the basis for their estimates, except to say that the estimates are based on a review of 20 – 25 documents per hour, using a team of 6 full time reviewers.
- 24. I am informed by Mr Song and believe that:
 - (a) For the purposes of estimating a document review period, Gilbert + Tobin uses a standard reviewer rate of 38 documents an hour for first round review (not 20 – 25 documents per hour as estimated by Davies Collison Cave). I am informed by Mr Song and believe a review rate of 35 documents per hour is a conservative and




appropriate review rate for the purposes of estimating the time to complete discovery.

- (b) Based on the estimated number of documents, Gilbert + Tobin would use a first round review team of between 10 – 15 full time reviewers and at least 3 second round reviewers (not 6 as estimated by Davies Collison Cave). I am informed by Mr Song and believe that a team of 6 reviewers would be considered an inadequate and impractical number of reviewers for a discovery exercise of this size, due to the extended time it would take them to review the documents.

25. Mr Song has reviewed the estimates which have been provided in Davies Collison Cave's letter dated 3 April 2025. I am informed by Mr Song and believe that based on:

- (a) Davies Collison Cave's cost estimate of \$1.2 - \$1.5 million for a first round review;
- (b) The reviewer rate of 20 – 25 documents per hour; and
- (c) A first review team of 6 full time reviewers,

the estimate of time required to complete discovery in EZIA Categories 1 and 2 (in 20(a) above) does not make mathematical sense if the Applicants were to conduct a manual review of all 287,490 documents falling under EZIA Categories 1 and 2.

26. Based on the assumptions in 25(b) - 25(c) above:

- (a) Mr Song has calculated that a review of 287,490 documents would take approximately 305 days for a first round review, and as a result a two stage review process using these assumptions would not be complete until 3 September 2026. As a result, I am informed by Mr Song that he believes that the estimate proposed by Davies Collison Cave does not include a manual review of all 298,490 documents.
- (b) To understand the basis for the estimate of time required by the Applicants, Mr Song has reverse engineered a document review estimate for a review of 287,490 documents which could be completed in December 2025.




27. I have reproduced below a copy of Mr Song's calculations below:

Time Frames	Applicants' Estimate Linear Review	Applicants' Estimate with 60% reduction
Starting Document Set	287,490	287,490
Reduced Document Set	287,490	114,996
2RR Document Set	21,562	21,562
1RR Duration (days)	305	130
1RR Team Size	6	6
1RR Review Rate	22.5	22.5
2RR Duration (days) - starting after 1RR (conservative assumption as usually 2RR starts before 1RR ends)	50	50
2RR Team Size	3	3
1RR Cost (not the total review cost)	\$2,811,013	\$1,124,405
Start Date	3/04/2025	3/04/2025
Production Date	3/09/2026	30/12/2025

28. I am informed by Mr Song and believe that based on his calculations it appears to him that the estimates proposed by Davies Collison Cave incorporate a 60% reduction in the total documents which will need to be reviewed, from the starting total of 287,490. I am informed by Mr Song and believe that it is likely the Applicants are proposing to employ a process such as Active Learning (which is a technology assisted review tool which can continuously prioritise a queue of review documents based on reviewer's coding decisions).
29. I am informed by Mr Song that, based on his experience, processes such as Active Learning is typically able to reduce a document set between 40 - 60%, which is consistent with the reduction Mr Song has inferred has been considered by the Applicants in formulating their estimate.

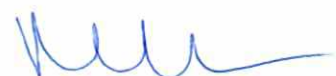
Gilbert + Tobin's estimate of the time required by the Applicants to complete discovery

30. I have asked Mr Song to prepare an estimate of the time required to review 72,455 documents (EZIA Categories 1 and 2 with amendment), using (a) DCC's proposed review team and reviewer rate and (b) Gilbert + Tobin's estimated review team and standard reviewer rate. Details of those estimates are set out below:




Time Frames	Applicants' Estimate Reduced Set Active Learning 60% reduction	G+T's Estimate Reduced Set Active Learning 60% reduction
Starting Document Set for EZIA Categories 1 and 2 (as amended)	72,455	72,455
Reduced Document Set	28,982	28,982
2RR Document Set	5,434	5,434
1RR Duration (days)	32	12
1RR Team Size	6	10
1RR Review Rate	22.5	35
2RR Duration (days) - starting after 1RR (conservative assumption as usually 2RR starts before 1RR ends)	10	10
2RR Team Size	3	3
Start Date	3/04/25	3/04/25
Production Date	27/06/25	29/05/25

31. As set out above, I am informed by Mr Song and believe that:
- (a) Based on the reviewer rate and review team proposed by DCC, the Applicants should be able to provide discovery of documents within EZIA Categories 1 and 2 (with the agreed amendment) by 27 June 2025; and
 - (b) Based on the reviewer rate and review team used typically used by Gilbert + Tobin, the Applicants should be able to provide discovery of documents within EZIA Categories 1 and 2 (with the agreed amendment) by 29 May 2025.
32. I have also asked Mr Song to prepare an estimate of the time required to review 137,455 documents (all EZIA categories with the agreed amendment to Category 2) using (a) DCC's proposed review team and reviewer rate and (b) Gilbert + Tobin's estimated review team and standard reviewer rate. This is the total number of documents which DCC has identified as potentially responsive, although I do not know how much duplication there is across the documents identified as responsive to EZIA Categories 1 and 2 and the documents identified as responsive to the remaining categories. Mr Song has prepared the following estimate:

Time Frames	Applicants' Estimate using Active Learning etc 60% reduction	G+T's Estimate using Active Learning etc 60% reduction
Starting Document Set	137,455	137,455
Reduced Document Set	54,982	54,982
2RR Document Set	10,309	10,309
1RR Duration (days)	59	23
1RR Team Size	6	10
1RR Review Rate	22.5	35
2RR Duration (days) - starting after 1RR (conservative assumption as usually 2RR starts before 1RR ends)	18	18
2RR Team Size	3	3
Start Date	3/04/2025	3/04/2025
Production Date	18/08/2025	26/06/2025

33. As set out above, I am informed by Mr Song and believe that:

- (a) Based on reviewer rate and review team proposed by DCC, the Applicants should be able to provide discovery of documents all documents by 18 August 2025; and
- (b) Based on the reviewer rate and review team used typically used by Gilbert + Tobin, the Applicants should be able to provide discovery of all documents by 26 June 2025.

Element Zero Respondents' concerns

34. Since 2 April 2025, Gilbert + Tobin has made a number of requests for updates on the Applicants' discovery process, however Davies Collison Cave has not provided any information about the status of this review. Correspondence from Gilbert + Tobin to DCC dated 4 April 2025, 7 April 2025 and 8 April 2025 appears at pages 68 to 74 of **Exhibit RMD-3**. On 24 April 2025, Gilbert + Tobin sent an email to Davies Collison Cave requesting that the Applicants confirm whether they have started reviewing documents for discovery and provide an update on their progress. As at the time of swearing this affidavit, Gilbert + Tobin has not received a response to this email. A copy of this email is reproduced at pages 75 to 76 of **Exhibit RMD-3**. Based on the correspondence, I am concerned that the Applicants are not efficiently progressing their discovery review and may not have commenced the review, despite the Court deciding EZIA Categories 1 and 2 on 6 February 2025 (over 12 weeks ago) and the remainder of the categories on 20 February 2025.




35. The Respondents are three individuals and a start-up company, with limited resources. The Element Zero Respondents have diverted significant time and resources to completing discovery as expeditiously as possible, to progress the proceedings efficiently (consistent with their obligations under section 37N of the *Federal Court of Australia Act 1976* (Cth)). As at the time of swearing this affidavit, the Element Zero Respondents have produced discovery in accordance with order 1 of the Discovery Orders.
36. The First Applicant is a publicly listed company, with a large legal team (including four barristers, at least six lawyers, two paralegals and an in-house legal team). In addition, it is apparent from Mr Dewar's unsworn affidavit that the Applicants have engaged the services of TransPerfect to assist with project managing the discovery review process. Based on my experience conducting litigation in the Federal Court for over 19 years, I consider that a party in the position of the Applicants should be able to employ additional resources if it is necessary to progress its discovery in a timely manner (including engaging more reviewers if necessary).
37. The Respondents have agreed to multiple limitations to the discovery categories which have been ordered by the Court in order to assist the Applicants in producing discovery efficiently, including:
- (a) Proposing a list of custodians who may hold relevant documents in answer to EZIA Categories 1 and 2;
 - (b) Agreeing to the amendment to EZIA Category 2 to remove the words "and/or Fortescue" which has the effect of reducing the document set for EZIA Category 2 by 90%.
38. Based on the information set out above (including the estimates provided in paragraph 33 above) and in light of the fact that the Applicants have already had over 12 weeks to progress their discovery, I have formed the review that the Applicants should be in a position to complete their discovery by 18 July 2025.



The Element Zero Respondents' Proposed Orders

39. In the circumstances, the Element Zero Respondents respectfully request the Court make the Element Zero Respondents Proposed Orders.

Sworn by the Deponent
at Barangaroo
in New South Wales
on 29 April 2025
Before me:

)
)
)
)
)



Signature of deponent



Signature of witness

Caitlin Aisling Meade, Solicitor
Level 35, International Tower Two
200 Barangaroo Avenue
Barangaroo NSW 2000

No. NSD527 of 2024

Federal Court of Australia
 District Registry: New South Wales
 Division: General

FORTESCUE LIMITED ACN 002 594 872 and another

Applicants

ELEMENT ZERO PTY LIMITED ACN 664 342 081 and others

Respondents

Exhibit RMD-3

This is a bundle of documents marked "Exhibit RMD-3" to the Affidavit of **Rebecca Mary Dunn** sworn before me on 29 April 2025.

Signature of witness

Caitlin Aisling Meade

Level 35 Tower Two
 International Towers Sydney
 200 Barangaroo Avenue
 Barangaroo NSW 2000
 Solicitor

Filed on behalf of (name & role of party)	The First, Second and Fourth Respondents		
Prepared by (name of person/lawyer)	Michael John Williams, Partner		
Law firm (if applicable)	Gilbert + Tobin		
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(include state and postcode)	200 Barangaroo Avenue, Barangaroo NSW 2000		



Federal Court of Australia

District Registry: New South Wales Registry

Division: General

No: NSD527/2024

FORTESCUE LIMITED ACN 002 594 872 and others named in the schedule
Applicant

ELEMENT ZERO PTY LIMITED ACN 664 342 081 and others named in the schedule
Respondent

ORDER

JUDGE: Justice Markovic

DATE OF ORDER: 26 February 2025

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. By 7 April 2025, each of the respondents give non-standard discovery pursuant to rr 20.15 to 20.17 of the *Federal Court Rules 2011* (Cth) of all documents within the categories set out in Schedule 1 to these Orders; except that compliance with r 20.17(2)(a) of the Rules is not required insofar as the documents are to be identified by reference to the relevant discovery category/categories, as noted in Schedule 1.
2. Documents produced by the respondents pursuant to category 11 of Schedule 1 may only be inspected by or disclosed to the external solicitors of record and counsel for the applicants, and independent experts retained by the applicants for the purpose of this proceeding, who have first provided an undertaking to the court substantially in the form of Schedule 2 to these Orders.
3. On a date to be determined, each of the applicants give non-standard discovery pursuant to rr 20.15 to 20.17 of the Rules of all documents within the categories set out in Schedule 3 and Schedule 4 to these Orders; except that compliance with r 20.17(2)(a) is not required insofar as the documents are to be identified by reference to the relevant discovery category/categories, as noted in Schedule 3 and Schedule 4.
4. The applicants are to undertake the steps set out in paragraphs 21(b)-(d) of the unsworn affidavit of Paul Alexander Dewar which appears at Annexure ARC-1 to the affidavit of Ashley Robert Cameron sworn 19 February 2025 (**Steps**) by 19 March 2025 in respect



of those custodians that the applicants consider would comply with their reasonable search obligations including having regard to:

- (a) the 27 custodians identified by the First, second and fourth respondents' solicitors' letter dated 24 February 2025 in response to the applicants' solicitors' letter dated 21 February 2025; and
- (b) the six custodians identified by the third respondent's solicitors email dated 26 February 2024,

(Custodians).

- 5. By 5.00 pm on 19 March 2025, the applicants are to notify the respondents of:
 - (a) the number of documents resulting from the Steps in respect of the Custodians; and
 - (b) an estimated time required to comply with Order 3.
- 6. The matter be listed for case management at 9.30 am on 21 March 2025.

Date orders authenticated: 26 February 2025


Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.



SCHEDULE 1

Applicants' Categories of Documents to be Discovered by the Respondents

Notes

All documents are to be produced in native form.

Each Document must be identified in relation to a discovery category

Definitions

- a. **"directly relevant"** means a document that falls within any of the criteria in rule 20.14(2) of the *Federal Court Rules 2011* (Cth).
- b. **"document"** has the meaning given to that term in Schedule 1 of the *Federal Court Rules*.
- c. **"First Specified Documents"** means the documents referred to in the particulars of paragraphs 19 and 20 of the FASOC including:

No.	Name	Ref
1	Green Iron Update (02.08.2021).pdf	see FASOC [19(i)(1)]
2	35557986AU- Specification as filed (35557986).pdf	see FASOC [19(i)(2)], see FASOC [20(i)(4)]
3	35557986AU - Drawings as filed (35557986).pdf	see FASOC [19(i)(2)], see FASOC [20(i)(4)]
4	Document titled "Basis of Design – Chameleon Pilot Plant" having document number or file name FFI0302-10000-00-EG-BOD-0001	see FASOC [19(i)(3)]
5	Bumblebee PID markups 26_10_21.pdf	see FASOC [19(i)(4)]
6	The SharePoint documents identified in paragraphs 112 to 118 of the affidavit of Dr Anand Indravadan Bhatt affirmed on 1 May 2024 and Annexure AIB-29	see FASOC [19(ii)], see FASOC [20(iv)]



No.	Name	Ref
7	The internal Fortescue procedures and specifications listed in paragraph 103 of the affidavit of Mr Wayne McFaull affirmed on 1 May 2024	see FASOC [19(iii)], see FASOC [20(v)]
8	211029_Iron ore leaching_Report_ASH.R1.docx	see FASOC [20(i)(1)]
9	211014_FFI Green Steel_Ore Leach_ASH_XRF results.csv	see FASOC [20(i)(2)]
10	211014_FFI Green Steel_Ore Leach_ASH_ICP results.csv	see FASOC [20(i)(3)]
11	Technical Evaluation.xlsx	see FASOC [20(i)(5)]
12	Email from David White sent on 4 November 2024 with Subject “Technical Evaluation of Green Iron process”	see FASOC [20(i)(6)]
13	Green Iron Update (01.11.2021).pdf	see FASOC [20(i)(7)]

- d. “**Fortescue**” has the meaning given to that term in paragraph 4 of the Further Amended Statement of Claim filed 24 October 2024 (**FASOC**).
- e. “**Ionic Liquid**” means any salt or mixture of salts that is capable of acting as an electrolyte in electrowinning and/or electroplating of metals and/or ores when in its liquid form (irrespective of the temperature range at which the salt or mixture is in its liquid form) including, without limitation, electrolytes that may be described as ionic liquids, molten salts, eutectics, molten hydroxide-based electrolytes, molten carbonate-based electrolytes, “hydroxide alkali melt or eutectic melt” (referred to in paragraph 29(a)(i) of the EZ Parties’ defence) and/or “molten hydroxide eutectic” (referred to in paragraph 29(c) of Dr Winther-Jensen’s defence).
- f. “**Second Specified Documents**” means any modified forms of First Specified Documents, including previous or subsequent drafts.

Categories

Ionic Liquid documents



1. All documents recording or evidencing work undertaken by the Second Respondent and/or Fortescue at any time during the period from 25 March 2019 to 12 November 2021, and/or the Third Respondent at any time during the period from 15 February 2021 to 12 November 2021, in relation to an electrochemical reduction process involving Ionic Liquid.
2. [Not used]
- 2A. All documents, and all documents recording information, copied, taken or otherwise obtained by the Second Respondent or the Third Respondent from Fortescue (including Fortescue's network, systems or devices) in the period from September 2021 to November 2021, including:
 - (a) the documents copied by the Second Respondent while working from home in October and November 2021;
 - (b) the documents taken by the Second Respondent "to finish off [his] work for Fortescue", referred to in paragraph 50 of the Second Respondent's affidavit sworn on 19 June 2024;
 - (c) the documents "saved on the local drives of [the Second Respondent's] Fortescue laptop", referred to in paragraph 50 of the Second Respondent's affidavit sworn on 19 June 2024;
 - (d) "the files on the local drives" deleted from the Second Respondent's Fortescue laptop, referred to in paragraph 51 of the Second Respondent's affidavit sworn on 19 June 2024;
 - (e) the documents in the TempSD folder, referred to in paragraph 52 of the Second Respondent's affidavit sworn on 19 June 2024;
 - (f) the documents on the Toshiba USB device (serial 07080A078F1B6304) and on the Kingston USB device (serial 900042ACAE668708); and
 - (g) the documents sent by the Third Respondent from his Fortescue email address "bjorn.winterjensen@fmgl.com.au" to his personal email address "bjornwj@gmail.com".
3. All documents evidencing the location and storage of any of the documents referred to in category 1 and 2A above during:
 - (a) the period 25 March 2019 to 12 November 2021;



(b) after 12 November 2021;

noting that compliance with this category does not require the “forensic investigation and analysis of the Element Zero Respondents’ computer systems”, in the sense described in the affidavit of Michael Williams sworn 29 December 2024 at paragraph [45].

4. [Not used]
5. All documents recording or evidencing any of the Respondents’ reference to the confidentiality of any of the documents referred to in category 1 and 2A above.

Specified Documents

6. All documents constituting or referring to the First Specified Documents.
- 6A. All documents concerning the design, engineering, construction, operation and/or feasibility of a green iron pilot plant, that were taken or copied by the Second or Third Respondents from Fortescue during the period 1 January 2021, until they respectively ceased employment with Fortescue.
7. All documents constituting or referring to the Second Specified Documents.
8. All documents recording or evidencing any use or disclosure of any one or more of the First and/or Second Specified Documents by any one or more of the Respondents or their agents.
9. [Not used]

Element Zero-related documents

10. [Not used]
11. All versions, including drafts, of the following documents (howsoever described):
 - (a) basis of design documents for the First Respondent’s pilot or trial plant/s, including the “**Element Zero Trial Plant**” (referred to in paragraph 30 of the EZ Parties’ defence);
 - (b) piping and instrumentation documents for the First Respondent’s pilot or trial plant/s, including the Element Zero Trial Plant;
 - (c) laboratory books (either in hard or soft copy) recording work done with respect to the development of each of beneficiation and leaching of ores and



electroplating and/or electrowinning and/or electrolyte development during the period from January 2022 to February 2024;

- (d) any documents provided by or on behalf of the Respondents or any of them to Playground Ventures containing any information in relation to chemical processes, plant design, the green iron/green steel industry and/or industry participants;
- (e) documents recording or evidencing the “retirement ‘project’”, the “work[] with nickel [and] iron”, and the “work that eventually led to the creation of Element Zero”, referred to in paragraph 40 of the affidavit of Bjorn Winther-Jensen affirmed on 8 July 2024;
- (f) documents recording the research and development of:
 - i. the “Element Zero Process” referred to in paragraph 29 of the EZ Parties’ defence; or
 - ii. the “Element Zero process” referred to in paragraphs 29(b)-(c) of Dr Winther-Jensen’s defence,

during the period from January 2022 to February 2024.

- 12. One or more documents recording or evidencing the amount of expenditure on designing, engineering and constructing the First Respondent’s pilot or trial plant/s, including the Element Zero Trial Plant.

Documents showing use / patent docs

- 13. Copies of all patents and patent applications (or divisional or related patents and patent applications) filed by any of the Respondents, or in which the Second, Third, and/or Fourth Respondents are named as an inventor concerning any aspect of an electrochemical reduction process involving Ionic Liquid, leaching and/or any aspect of a pilot or trial plant for the electrochemical reduction of ore (including the Element Zero Trial Plant), including drafts thereof, and including but not limited to:
 - (a) no. 2022903090 entitled “Method of ore processing”;
 - (b) no. 2023902103 entitled “Ore Processing Method for Metal Recovery”;
 - (c) no. 2023903979 entitled “Electrowinning from Molten Salt” (979 Application);
 - (d) no. PCT/AU2023/051041 entitled “Method of ore processing”;



- (e) any patent application for an electrochemical reduction process involving Ionic Liquid;
- (f) any patent application concerning leaching;
- (g) any patent application that relates to the features of a pilot or trial plant (including the Element Zero Trial Plant) in respect of electrochemical reduction of ore;
- (h) the patents or patent applications that “cover the overall process and its unique chemistry” as referred to on the Element Zero website as shown at Bhatt AIB-22 p 141;
- (i) the patents or patent applications that cover “the complete circuit design for mineral processing incorporating a unique electrolyte” as referred to on the Element Zero website, as shown at Bhatt AIB-22 p 141;

except that the:

- (I) Second Respondent is not required to give discovery in respect of patents, patent applications, and drafts thereof that he did not work on after 25 March 2019; and
 - (II) Third Respondent is not required to give discovery in respect of patents, patent applications, and drafts thereof that he did not work on after 15 February 2021.
14. All documents evidencing or recording the use of any of the documents in categories 1, 2A, 6 and/or 7 above for or in preparing or inventing any of the patents or patent applications referred to in category 13 above.



SCHEDULE 2

Confidentiality Undertaking

No. NSD 527 of 2024

Federal Court of Australia
District Registry: New South Wales
Division: General

FORTESCUE LIMITED ACN 002 594 872

and others named in the schedule

Applicants

ELEMENT ZERO PTY LIMITED ACN 664 342 081

and others named in the schedule

Respondents

I, _____
of _____,
being an Australian external legal practitioner or an Australian barrister acting for the Applicants,
or an independent expert witness retained by the Applicants for the purposes of this Proceeding,
undertake to the Court, effective from the date set out on the final page of this undertaking, that
until and unless the Court otherwise orders or the Respondent(s) otherwise agrees in writing:

Confidentiality, disclosure and use

I will keep the Confidential Material confidential at all times.

To the extent I have access to Confidential Material:

I will use, handle, keep and store the Confidential Material in such a manner that will at all
times preserve its confidentiality;

I will establish and maintain reasonable security measures to safeguard the Confidential
Material from unauthorised access or use; and

I will not make any copies of Confidential Material except as reasonably necessary for the
sole purpose of the conduct of the Proceeding.

I will not use the Confidential Material for any purpose other than for the sole purpose of the conduct
of the Proceeding.

I will not use the Confidential Material for the purpose of:

drafting, amending or prosecuting any patent application or utility model in any jurisdiction;
or



any other legal proceeding in any jurisdiction (existing or otherwise).

Subject to paragraph 0 below, I will not disclose the Confidential Material (either in whole or in part) either directly or indirectly to any person including the Applicants, their servants, agents and related companies without the prior written consent of the Respondent(s)' Lawyers, unless:

such disclosure is expressly authorised by the Court, including by way of a determination by the Court:

that I be released from this undertaking with respect to the relevant Confidential Material; or

that the relevant Confidential Material is not confidential;

the Confidential Material is in, or enters into, the public domain other than in contravention of a confidentiality undertaking or other obligation of confidence; or

such disclosure is required by law.

The Confidential Material may be disclosed by me:

to any Judge, employee or other personnel of the Court or any person associated with recording the transcript at any hearing in the Proceeding for the purpose of the Proceeding and provided the Confidential Material is:

in the case of oral disclosures in relation to the Confidential Material, stated to be subject to this confidentiality undertaking; and

otherwise, clearly identified and marked "Confidential" and is otherwise kept confidential in accordance with this undertaking;

to the Applicants' Lawyers and Australian barristers retained by or on behalf of the Applicants to act for the Applicants in the Proceeding who have signed and provided to the Court undertakings in the same terms as this undertaking before that person has access to the Confidential Material;

to support and administrative staff employed by (or, in the case of Australian barristers, employed or engaged by the barrister or by their chambers) persons referred to in sub-paragraph 0 above who reasonably require access to the Confidential Material for the purpose of the Proceeding;

in an affidavit filed in the Proceeding by or on behalf of the Applicants, provided the Confidential Material is in an annexure or exhibit to such an affidavit and any such annexure or exhibit is clearly identified and marked "Confidential" and otherwise kept confidential in accordance with this undertaking; and

to independent experts retained by the Applicants' Lawyers in relation to the Proceeding who have signed and provided to the Court undertakings in the same terms as this undertaking before that person has access to the Confidential Material.

If I propose to disclose or otherwise use Confidential Material in any interlocutory or final hearing in the Proceeding, then subject to paragraph 0 above, I will take all necessary steps to ensure that the disclosure is not made in open Court and that the transcript of that portion of the hearing is confidential, with access thereto limited to the persons who have liberty to view such material under this undertaking or any orders of the Court.



Within 30 days of the final determination of the Proceeding or on the expiry of any applicable appeal period (whichever is the later) I will:

destroy all hard copies (including, without limitation, computer disks and USB drives) of all Confidential Material in my possession, custody, control or power, and give (or cause to be given) notice in writing to the Respondent(s)' Lawyers certifying the destruction of all such hard copies of Confidential Material; and

take all reasonable action to permanently delete, so as not be retrievable by any means, all Confidential Material stored in any electronic storage facility owned or used by me and give (or cause to be given) notice in writing to the Respondent(s)' Lawyers certifying the permanent deletion of all such electronic copies of Confidential Material or that I have taken such action, as the case may be.

except that:

the Applicants' Lawyers may retain one copy of the Confidential Documents;

the Applicants' Lawyers and Australian barristers retained by or on behalf of the Applicants may retain: (i) any notes, memoranda, summaries, reports, analyses, records and opinions made or caused to be made by the Applicants' Lawyers or Australian barristers (including any briefs to experts and any expert reports) which may contain Confidential Information; (ii) any evidence in the Proceeding or transcript of the Proceeding which may contain Confidential Information, in each case for record-keeping purposes, provided that they are stored confidentially within the internal records of the Applicants' Lawyers or Australian barristers (as the case may be); and

copies of the Confidential Material may be contained in electronic files created pursuant to automatic archiving and back-up procedures in the ordinary course of business,

provided that any such copies are kept confidential, and not accessible by any person, other than in accordance with the terms of this undertaking.

I will notify the Court and Respondent(s)' Lawyers (or cause the Court and Respondent(s)' Lawyers to be notified) as soon as practicable if I become aware of any suspected or actual unauthorised access, use or disclosure of any Confidential Material, and will provide all reasonable assistance requested by the Court, Respondent(s) and/or the Respondent(s)' Lawyers in relation to any action that the Court and/or Respondent(s) may take against any person for unauthorised use or disclosure of any Confidential Material provided to me pursuant to this undertaking.

Definitions

The following definitions apply in this undertaking:

Applicants means Fortescue Limited, Fortescue Future Industries Pty Ltd and FMG Personnel Services Pty Ltd.

Applicants' Lawyers means Davies Collison Cave Law.

Confidential Document means all documents (in any form or media) produced by any of the Respondents in response to category 11 in Schedule 1 to the orders of Justice Markovic dated [date of orders] in the Proceeding, being:



11. All versions, including drafts, of the following documents (howsoever described):

- (a) basis of design documents for the First Respondent's pilot or trial plant/s, including the "**Element Zero Trial Plant**" (referred to in paragraph 30 of the EZ Parties' defence);
- (b) piping and instrumentation documents for the First Respondent's pilot or trial plant/s, including the Element Zero Trial Plant;
- (c) laboratory books (either in hard or soft copy) recording work done with respect to the development of each of beneficiation and leaching of ores and electroplating and/or electrowinning and/or electrolyte development during the period from January 2022 to February 2024;
- (d) any documents provided by or on behalf of the Respondents or any of them to Playground Ventures containing any information in relation to chemical processes, plant design, the green iron/green steel industry and/or industry participants;
- (e) documents recording or evidencing the "retirement 'project'", the "work[] with nickel [and] iron", and the "work that eventually led to the creation of Element Zero", referred to in paragraph 40 of the affidavit of Bjorn Winther-Jensen affirmed on 8 July 2024;
- (f) documents recording the research and development of:
 - i. the "Element Zero Process" referred to in paragraph 29 of the EZ Parties' defence; or
 - ii. the "Element Zero process" referred to in paragraphs 29(b)-(c) of Dr Winther-Jensen's defence,

during the period from January 2022 to February 2024.

Confidential Information means the contents of, and all information in, any Confidential Document, all information derived therefrom or in notes taken or reports or other documents generated therefrom.

Confidential Material means Confidential Information and Confidential Documents.

Court means the Federal Court of Australia.

Proceeding means Federal Court of Australia proceeding number NSD 527 of 2024, any cross-claim filed in that proceeding, and any appeal(s) therefrom, any applications for special leave to appeal, and any costs recovery proceedings in relation to any such proceedings.

Respondent(s) means the Respondent(s) to the Proceeding.

Respondent(s)' Lawyers means the respective Respondent's legal representatives of record in this Proceeding.



This undertaking

I acknowledge that this undertaking continues in force after the conclusion of the Proceeding.

I irrevocably submit to the jurisdiction of the Court for the purposes of enforcing this undertaking.

Signature: _____ Date: _____

Signature of Witness: _____

Name of Witness: _____



SCHEDULE 3

EZ Respondents' Categories of Documents to be Discovered by the Applicants

Capitalised terms are defined in the Further Amended Statement of Claim dated 23 October 2024 (**FASOC**).

Document has the same meaning as in the Evidence Act 1995 (Cth) not including any Excluded Documents.

Excluded Documents means documents already produced by the Applicants in the Proceedings.

Proceedings means the claim commenced by Fortescue in the Federal Court of Australia numbered NSD527/2024.

Notes:

All documents are to be produced in native form.

Each Document must be identified in relation to a discovery category

Documents recording all research and development work undertaken by the Second Respondent or the Third Respondent during the period from 25 March 2019 to 12 November 2021 on Direct Electrochemical Reduction processes, including approvals of research, research instructions, work undertaken, target timescales for that work, funding approvals and budgets and invoices for equipment and products used in such processes.

Documents recording the Ionic Liquid R&D Information and any research or development work undertaken in relation to Ionic Liquid R&D by the Second Respondent, the Third Respondent and/or Fortescue during the period from 25 March 2019 to 12 November 2021, including approvals of research, research instructions, work undertaken, target timescales for that work, funding approvals and budgets and invoices for equipment and products used in such processes.

Documents recording the end of Dr Kolodziejczyk's employment with Fortescue, including documents concerning:

- a. his resignation and terms on which his employment ended, including the preparation of a Deed of Separation;
- b. any instructions given to him in respect of the period following him giving notice of his resignation; and
- c. communications and records of any meetings between Dr Kolodziejczyk and Fortescue employees between 22 October 2021 and 5 November 2021.

[Not used].



A native copy of the documents identified at particular (i)1 – 4 to paragraph 19 and particular (i)1-7 to paragraph 20 of the FASOC and any documents that incorporate all or part of the information in those documents that is said to be confidential.

Fortescue internal policies in effect at any time during Dr Kolodziejczyk's and Dr Winther-Jensen's employment, insofar as those documents record obligations imposed on Dr Kolodziejczyk and Dr Winther-Jensen in respect of intellectual property and confidential information during each of their employment with Fortescue.

[Not used]

Documents recording Dr Kolodziejczyk and Dr Winther-Jensen obtaining the Fortescue information as referred to in paragraphs 19 and 20 of the FASOC.

[Not used]

Documents recording the results of any investigations or searches for the documents or into the conduct identified in FASOC [12]-[14], to the extent those results are not recorded in the affidavit of:

- (a) Ms Susanne Monica Hantos affirmed 1 May 2024;
- (b) Dr Anand Indravadan Bhatt affirmed 1 May 2024; or
- (c) Mr Adrian Huber sworn 1 May 2024 at Annexures AH-21, AH-22, AH-26, AH-27.



SCHEDULE 4

Third Respondent's Categories of Documents to be Discovered by the Applicants

Definitions

Capitalised terms are defined in the Further Amended Statement of Claim dated 23 October 2024 (**FASOC**).

Document has the same meaning as in the *Federal Court Rules 2011* (Cth) not including any Excluded Documents.

Excluded Documents means documents already produced by the Applicants in the Proceedings.

Proceedings means the claim commenced by Fortescue in the Federal Court of Australia numbered NSD527/2024.

Notes

- All documents are to be produced in native form.
 - Each document must be identified in relation to a discovery category.
1. Copies of all documents produced to the First, Second and Fourth Respondents by way of discovery.
 2. Documents recording the end of Dr Winther-Jensen's employment with Fortescue, including documents concerning:
 - (a) his resignation and terms on which his employment ended, including the preparation of a Deed of Separation;
 - (b) any instructions given to him in respect of the period following him giving notice of his resignation; and
 - (c) communications and records of any meetings between Dr Winther-Jensen and Fortescue employees between 3 November 2021 and 12 November 2021.
 3. [Not used].
 4. [Not used].
 5. A native copy of the documents identified at particular (i)1.-4 to paragraph 19 and particular (i)1-7 to paragraph 20 of the FASOC and any documents that incorporate all or part of the information in those documents that is said to be confidential.



Schedule of parties

No: NSD527/2024

Federal Court of Australia

District Registry: New South Wales Registry

Division: General

Second Applicant	FORTESCUE FUTURE INDUSTRIES PTY LTD ACN 625 711 373
Third Applicant	FMG PERSONNEL SERVICES PTY LTD ACN 159 057 646
Second Respondent	BARTLOMIEJ PIOTR KOŁODZIEJCZYK
Third Respondent	BJORN WINTHER-JENSEN
Fourth Respondent	MICHAEL GEORGE MASTERMAN

Caitlin Meade

From: Grace O'Connor <GOConnor@dcc.com>
Sent: Wednesday, 2 April 2025 8:41 PM
To: Caitlin Meade
Cc: Mike Hales; Oliver Hoare; Michael Williams; Rebecca Dunn; Daisy Cullen; Molly Allen; Daniella Lambert; Paul Dewar; Ashley Cameron; Kevin Huang; Rohit Dighe; Jessica Sapountsis
Subject: RE: Fortescue Limited & Ors v Element Zero Pty Ltd & Ors - Federal Court proceedings NSD527/2024 [ITUSEONLY-LAW.FID86345]
Attachments: 2025-04-02 Letter to G+T and ME (discovery).pdf; 20250402 - Applicant's Short Minutes of Order.docx

 External email >

Dear Colleagues,

Please refer to the ***attached** letter and enclosure.

Yours faithfully

Grace O'Connor
 Managing Associate



DAVIES COLLISON CAVE LAW | dcc.com

T +61 3 9254 2888 | F +61 3 9254 2770

We extend our respect to all Aboriginal and Torres Strait Islander peoples throughout Australia and acknowledge the Traditional Owners and Custodians of the lands on which we work. We recognise their ongoing connection to land, sea and community.

Davies Collison Cave Law Pty Limited (ABN 40 613 954 420) is a member of the QANTM Intellectual Property Limited Group of Companies. Information on the members of the Group can be found **here**. Liability limited by a scheme approved under the Professional Standards Legislation.

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BY EMAIL:

MWilliams@gtlaw.com.au;
RDunn@gtlaw.com.au
Mike.Hales@minterellison.com;
Daniella.Lambert@minterellison.com

Our Ref: 2023413**Your Refs:** MJW:RXD:1058625
1496352**dcc.com****Attention:** Michael Williams
Rebecca Dunn
Mike Hales
Daniella Lambert**Contact:** Paul Dewar
PDewar@dcc.comGrace O'Connor
GOConnor@dcc.com

2 April 2025

Mr Michael Williams / Ms Rebecca Dunn
Gilbert + Tobin
L35, Tower Two, International Towers Sydney
200 Barangaroo Avenue
Barangaroo NSW 2000

and

Mr Mike Hales / Ms Daniella Lambert
MinterEllison
One The Esplanade, Level 9
1 The Esplanade
Perth WA 6000

**Fortescue Limited & Ors v Element Zero Pty Limited & Ors,
Federal Court Proceeding No. NSD527 of 2024**

Dear Colleagues

We refer to the orders of Justice Markovic dated 26 February 2025 (**Orders**), as updated by the orders of 21 March 2025.

Pursuant to paragraph 4 of the Orders as updated by the orders of 21 March 2025, our clients were required by today to undertake the steps set out in paragraphs 21(b)-(d) of unsworn affidavit of Paul Alexander Dewar (which appears at Annexure ARC-1 to the affidavit of Ashley Robert **Cameron** sworn 19 February 2025) (**Steps**) and notify the Respondents of the matters raised in paragraph 5 of the Orders.

We advise as follows:

Order 5(a) of the Orders

1. The Applicants have completed the Steps 21(b)-(d) having regard to the 27 custodians identified by the EZ Respondents in their letter of 24 February 2025; and the six custodians identified by the Third Respondent's solicitors in their email dated 26 February 2025.

2. The total number of documents resulting from the Steps in respect of the custodians identified by the Respondents is:
 - a. 42,393 documents in respect of EZIA category 1; and
 - b. 235,097 documents in respect of EZIA category 2,producing a total of **277,490** documents in respect of categories 1 and 2 alone.
3. To be clear, our client does not know at this stage how many (if any) of these documents actually fall within the scope of EZIA categories 1 and 2. Rather, this is merely the pool of documents that our client considers should be reviewed for the purpose of responding to those categories.

Order 5(b) of the Orders

4. In compliance with order 5(b), the Applicants estimate that they will require the following amounts of time in respect of the following categories to comply with their discovery obligations under order 3 of the Orders:
 - a. Tranche 1: discovery of documents within EZIA categories 3, 5, 6, 8, and 10 EZIA; and 3RIA categories 2 and 5 – **18 July 2025 (i.e. approx. 3.5 months)**;
 - b. Tranche 2: discovery of documents within EZIA categories 1 and 2 – **19 December 2025 (i.e. approx. 8.5 months)**.
5. The document review process is likely to involve multiple levels of review. As a result, the calculation as to the amount of time required to conduct those reviews and provide discovery is not straightforward or necessarily conducive to a formulaic calculation. For example, it is our understanding that a first level reviewer is typically able to review around 20-25 documents per hour. We do not know at this stage whether this is an accurate estimate in light of the technical nature of the documents in this proceeding. Therefore, the estimates provided in this letter are the best estimates available based on the information available to the Applicants at this time.

The time required for Tranche 1

6. The Applicants' estimate of approximately 3.5 months to provide discovery in Tranche 1 is made in view of the total number of documents sourced from potentially relevant custodians and other potentially relevant document repositories, being over 65,000 documents.
7. That is, for the avoidance of doubt, there are over 65,000 documents that may be relevant to EZIA Categories 3, 5, 6, 8 and 10 and 3RIA categories 2 and 5 *in addition* to the documents that have been identified as potentially relevant to EZIA categories 1 and 2.
8. We repeat our clients' position that it does not know at this stage how many (if any) of the 65,000 documents actually fall within the scope of EZIA Categories 3, 5, 6, 8 and 10 and 3RIA categories 2 and 5, rather the figure of 65,000 documents merely represents the pool of documents that our client considers should be reviewed for the purpose of responding to those categories.

The time required for Tranche 2 (EZIA categories 1 and 2)

9. The Applicants' estimate of approximately 8.5 months to provide discovery under EZIA categories 1 and 2 is made in view of the total number of documents sourced from the custodians above (277,490); as well as a further approximately 10,000 documents sourced from other document repositories (including Sharepoint). This estimate also takes into account that at least some of the members of the document review team will initially focus on the categories relevant to Tranche 1 (and will then be in a position to transition to the categories the subject of Tranche 2 from about July).
10. The costs associated with this review (assuming 6 full time equivalent (FTE) reviewers) would (conservatively) be in the range of \$1.2 - \$1.5 million. Obviously, if additional first-pass reviewers are added to the team this could reduce the time required to undertake the first-pass review, but it will further increase the cost of that review.
11. The Applicants consider it most efficient to give discovery of documents responsive to EZIA categories 1 and 2 at the same time. This is due to the overlap in the concepts of "Direct Electrochemical Reduction" processes (EZIA cat 1) and "Ionic Liquid R&D" (EZIA cat 2), which is a type of electrochemical reduction process. Additionally, both categories specify the same sub-categories of documents being *"approvals of research, research instructions, work undertaken, target timescales for that work, funding approvals and budgets and invoices for equipment and products used in such processes"*, which are most efficiently reviewed together.

Amendments to EZIA category 2

12. As can be seen in paragraph 2 above, the pool of documents potentially responsive to EZIA category 2 is around 7 times larger than that for EZIA category 1.
13. The Applicants have identified that a key contributor to the size of the pool of documents potentially responsive to EZIA category 2 is that (unlike EZIA category 1) it includes the phrase "and/or Fortescue".
14. If the words "and/or Fortescue" were removed from EZIA category 2, the pool of potentially responsive documents would narrow to **30,062** (meaning the total number of potentially relevant documents in relation to categories EZIA 1 and 2 becomes **72,455**), such that in those circumstances the Applicants estimate they could give discovery of Tranche 2 above by **12 September 2025**.
15. In the circumstances, the Applicants propose that EZIA category 2 be amended as follows:

Documents recording the Ionic Liquid R&D Information and any research or development work undertaken in relation to Ionic Liquid R&D by the Second Respondent or the Third Respondent ~~and/or Fortescue~~ during the period from 25 March 2019 to 12 November 2021, including approvals of research, research instructions, work undertaken, target timescales for that work, funding approvals and budgets and invoices for equipment and products used in such processes.

2 April 2025

We enclose short minutes of order giving effect to the above amendments to EZIA category 2 and consequential timeframes for discovery on the basis that EZIA category 2 is amended. Please let us know if your clients consent to these orders. Otherwise, the Applicants intend to seek these orders at the CMH on Friday.

Yours faithfully

A handwritten signature in black ink, reading "David Collison Cave Law". The signature is written in a cursive, flowing style.

DAVIES COLLISON CAVE LAW

Form 1
Rule 2.13(2)

Applicants' Short Minutes of Order

No. NSD 527 of 2024

Federal Court of Australia
District Registry: New South Wales
Division: General

FORTESCUE LIMITED ACN 002 594 872 and others named in the schedule

Applicants

ELEMENT ZERO PTY LIMITED ACN 664 342 081 and others named in the schedule

Respondents

ORDER

JUDGE: Justice Markovic

DATE OF ORDER: April 2024

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Discovery Category 2 in Schedule 3 to the orders dated 26 February 2025 (**Orders**) be amended to delete the words "and/or Fortescue", and add "or" after the words "Second Respondent" so the category reads as follows:

"Documents recording the Ionic Liquid R&D Information and any research or development work undertaken in relation to Ionic Liquid R&D by the Second Respondent or the Third Respondent ~~and/or Fortescue~~ during the period from 25 March 2019 to 12 November 2021, including approvals of research, research instructions, work undertaken, target timescales for that work, funding approvals and budgets and invoices for equipment and products used in such processes".

2. The dates on which the Applicants are to give discovery pursuant to order 3 of the Orders are:

Filed on behalf of	Fortescue Limited, Fortescue Future Industries Pty Ltd and FMG Personnel Services Pty Ltd, the Applicants		
Prepared by	Paul Dewar		
Law firm	Davies Collison Cave Law		
Tel	02 9293 1000	Fax	02 9262 1080
Email	PDewar@dcc.com		
Address for service	Level 4, 7 Macquarie Place, Sydney NSW 2000		

[Form approved 01/08/2011]

- (a) 19 July 2025 for documents within categories 3, 5, 6, 8 and 10 of Schedule 3 to the Orders (**EZ Categories**) and category 2 of Schedule 4 to the Orders;
 - (b) 12 September 2025 for documents within categories 1 and 2 of the EZ Categories.
- 3. The matter be listed for a case management hearing at 9.30 am on a day during the period 17-20 June 2025.

Date: April 2025

Schedule

No. NSD 527 of 2024

Federal Court of Australia

District Registry: New South Wales

Division: General

Applicants

Second Applicant:

FORTESCUE FUTURE INDUSTRIES PTY LTD**ACN 625 711 373**

Third Applicant:

FMG PERSONNEL SERVICES PTY LTD**ACN 159 057 646****Respondents**

Second Respondent:

BARTLOMIEJ PIOTR KOLODZIEJCZYK

Third Respondent:

BJORN WINTHER-JENSEN

Fourth Respondent:

MICHAEL GEORGE MASTERMAN

Caitlin Meade

From: Caitlin Meade
Sent: Thursday, 3 April 2025 4:59 PM
To: Grace O'Connor
Cc: Mike Hales; Oliver Hoare; Michael Williams; Rebecca Dunn; Daisy Cullen; Molly Allen; Daniella Lambert; Paul Dewar; Ashley Cameron; Kevin Huang; Rohit Dighe; Jessica Sapountsis
Subject: FW: Fortescue Limited & Ors v Element Zero Pty Ltd & Ors - Federal Court proceedings NSD527/2024 [ITUSEONLY-LAW.FID86345]
Attachments: Applicant's Short Minutes of Order (G+T amendments).docx; Letter to DCC re discovery 3 April 2025.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Colleagues

Please see attached correspondence.

Regards
 Rebecca Dunn / Caitlin Meade

From: Grace O'Connor <GOConnor@dcc.com>
Sent: Wednesday, 2 April 2025 8:41 PM
To: Caitlin Meade <CMeade@gtlaw.com.au>
Cc: Mike Hales <Mike.Hales@minterellison.com>; Oliver Hoare <Oliver.Hoare@minterellison.com>; Michael Williams <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>; Daniella Lambert <daniella.lambert@minterellison.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Kevin Huang <KHuang@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Jessica Sapountsis <JSapountsis@dcc.com>
Subject: RE: Fortescue Limited & Ors v Element Zero Pty Ltd & Ors - Federal Court proceedings NSD527/2024 [ITUSEONLY-LAW.FID86345]

 External email >

Dear Colleagues,

Please refer to the ***attached** letter and enclosure.

Yours faithfully

Grace O'Connor
 Managing Associate



DAVIES COLLISON CAVE LAW | dcc.com

T +61 3 9254 2888 | F +61 3 9254 2770

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We recognise their ongoing connection to land, sea and community.

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Partner Michael Williams
 Contact Rebecca Dunn
 T +61 2 9263 4625
 rdunn@gtlaw.com.au
 Our ref MJW:RXD:1058625



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3 April 2025

By email: pdewar@dcc.com

Mr Paul Dewar
 Partner
 Davies Collison Cave
 Level 4, 7 Macquarie Place
 SYDNEY NSW 2000

Dear Colleagues

Fortescue Limited & Ors v Element Zero Pty Ltd & Ors - Proceedings in the Federal Court of Australia (NSD527/2024)

We refer to your letter dated 2 April 2025.

Our clients are concerned that this matter be progressed as expeditiously as possible. Your letter proposes a very lengthy timetable, which in our view is out of all proportion to the discovery exercise your clients are required to undertake. Insufficient detail is given for us to properly assess the basis for the timeframes you have proposed. In any event, as set out below, our clients have adopted a pragmatic approach to the proposals in your letter so as to mitigate the delay, and to ensure this case is prosecuted to a hearing as soon as possible.

Category 2

Your letter proposes, for the first time, an amendment to discovery category 2 in Schedule 3 to the orders made 26 February 2025 (**Category 2**) to remove the words “and/or Fortescue”. We note that this represents a change in position, as Fortescue did not object to the words “and/or Fortescue” at the hearing on 6 February 2025, including on the grounds of oppression.

Category 2 as ordered requires production of two subcategories of documents:

- (a) documents recording the Ionic Liquid R&D Information; and
- (b) any research or development work undertaken in relation to Ionic Liquid R&D by the Second Respondent, the Third Respondent and/or Fortescue during the period from 25 March 2019 to 12 November 2021, including approvals of research, research instructions, work undertaken, target timescales for that work, funding approvals and budgets and invoices for equipment and products used in such processes”.

“Ionic Liquid R&D Information” is defined as “information created by Dr Kolodziejczyk, Dr Winther-Jensen and/or other employees of FMGPS in undertaking Ionic Liquid R&D” (FASOC 14) and “Ionic Liquid R&D” is defined as confidential research and development work undertaken by “Dr Kolodziejczyk and Dr Winther-Jensen” and “other employees of FMGPS” (FASOC 12).

Your letter indicates that the deletion of the words “and/or Fortescue” will substantially narrow the set of potentially relevant documents (but does not explain this). For the sake of completeness, the First, Second and Fourth Respondents do not read the proposed deletion of the words “and/or Fortescue” to exclude the work undertaken by “other employees”, or to narrow the meaning of Ionic Liquid R&D or Ionic Liquid R&D Information. This is a critical part of Fortescue’s case, and the Applicants must produce documents recording the Ionic Liquid R&D Information in accordance with her Honour’s orders.

In order to progress this matter more efficiently and in light of our understanding set out above, the First, Second and Fourth Respondents are willing to agree to the proposed amendment to Category 2. However, our clients do reserve the right to press discovery in the present form of Category 2 if they consider it necessary to do so after your clients have completed their evidence.

Timing of production

Notwithstanding our clients' preparedness in the circumstances to agree to the proposed amendment, the First, Second and Fourth Respondents do not agree with the timetable for production proposed by the Applicants, which appears to be excessive. Your clients and your firm are well resourced and should be able to progress discovery quickly and efficiently, including by utilizing standard discovery review techniques to reduce the review pool, such as predictive coding, email threading technology, keyword searches and de-duplication.

In particular, we do not understand the basis for the time for production under order 2 of the orders sought by your client (assuming Category 2 is amended). It differs considerably from previous estimates given that the Applicants would require:

- (a) 3 months to review 100,000 potentially relevant documents (affidavit of Paul Alexander Dewar sworn 29 November 2024):
- (b) 5 months to review 1,000,000 potentially relevant documents (unsworn affidavit of Paul Alexander Dewar which appears at Annexure ARC-1 to the affidavit of Ashley Robert Cameron sworn 19 February 2025):
- (c) 8.5 months to review 277,490 potentially relevant documents (paragraph 4(a) of your letter dated 2 April 2025); and
- (d) 3.5 months to review 65,000 potentially relevant documents (paragraph 4(b) of your letter dated 2 April 2025).

Whilst we do not accept the accuracy of these estimates, which are clearly unreliable, even assuming they are accurate, it is inconceivable that the Applicants would require 6 months to review 75,455 documents under Category 1 and the amended Category 2. Your clients have already had two months to undertake discovery in relation to these categories and have now taken the steps to prepare the documents for first round review. Considering that the proposed amendment to Category 2 will reduce the number of documents the Applicant is required to review by 90%, the extended period proposed is excessive.

We also note that during the hearing on 20 February 2024, Senior Counsel for the Applicants informed the Court that your client would propose a reasonable date for production of discovery under all categories simultaneously to avoid duplicative searches (T64.32-41).

In the circumstances, the First, Second and Fourth Respondents would be willing to agree to a timetable that the Applicants provide discovery under all categories (including amended Category 2) by 18 July 2025.

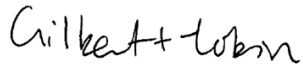
Evidence

Finally, the First, Second and Fourth Respondents position is that an order should be made for the Applicants to file evidence in chief. Your clients will receive the Respondents' discovery by 21 April 2025 which would enable the Applicants to prepare evidence in chief, while simultaneously conducting discovery (particularly given the large team of lawyers and Counsel acting on behalf of the Applicants).

In the circumstances, the First, Second and Fourth Respondents would be willing to agree to orders in the **attached** form. Please confirm your clients' position on the attached orders as soon as possible.

Our clients' rights are reserved.

Yours faithfully
Gilbert + Tobin



Michael Williams
Partner
+61 2 9263 4271
mwilliams@gtlaw.com.au

Rebecca Dunn
Partner
+61 2 9263 4625
rdunn@gtlaw.com.au

Form 1
Rule 2.13(2)

Applicants' Short Minutes of Order

No. NSD 527 of 2024

Federal Court of Australia
District Registry: New South Wales
Division: General

FORTESCUE LIMITED ACN 002 594 872 and others named in the schedule

Applicants

ELEMENT ZERO PTY LIMITED ACN 664 342 081 and others named in the schedule

Respondents

ORDER

JUDGE: Justice Markovic

DATE OF ORDER: April 2024

WHERE MADE: Sydney

THE COURT ORDERS THAT:

- Discovery Category 2 in Schedule 3 to the orders dated 26 February 2025 (**Orders**) be amended to delete the words "and/or Fortescue", and add "or" after the words "Second Respondent" so the category reads as follows:

"Documents recording the Ionic Liquid R&D Information and any research or development work undertaken in relation to Ionic Liquid R&D by the Second Respondent or the Third Respondent ~~and/or Fortescue~~ during the period from 25 March 2019 to 12 November 2021, including approvals of research, research instructions, work undertaken, target timescales for that work, funding approvals and budgets and invoices for equipment and products used in such processes".

(a) ~~The dates on which the~~ Applicants are to give discovery pursuant to order 3 of the Orders by are:

Filed on behalf of	Fortescue Limited, Fortescue Future Industries Pty Ltd and FMG Personnel Services Pty Ltd, the Applicants		
Prepared by	Paul Dewar		
Law firm	Davies Collison Cave Law		
Tel	02 9293 1000	Fax	02 9262 1080
Email	PDewar@dcc.com		
Address for service	Level 4, 7 Macquarie Place, Sydney NSW 2000		

2. ~~198 July 2025, for documents within categories 3, 5, 6, 8 and 10 of Schedule 3 to the Orders (EZ Categories) and category 2 of Schedule 4 to the Orders;~~

~~(a) 12 September 2025 for documents within categories 1 and 2 of the EZ Categories.~~

3. The Applicants file and serve evidence in chief by 31 July 2025.

~~3.4.~~ The matter be listed for a case management hearing at 9.30 am on a day during the period ~~17-20 June 2025~~week commencing 4 August 2025.

Date: April 2025

Schedule

No. NSD 527 of 2024

Federal Court of Australia

District Registry: New South Wales

Division: General

Applicants

Second Applicant:	FORTESCUE FUTURE INDUSTRIES PTY LTD ACN 625 711 373
Third Applicant:	FMG PERSONNEL SERVICES PTY LTD ACN 159 057 646

Respondents

Second Respondent:	BARTLOMIEJ PIOTR KOLODZIEJCZYK
Third Respondent:	BJORN WINTHER-JENSEN
Fourth Respondent:	MICHAEL GEORGE MASTERMAN

Caitlin Meade

From: Grace O'Connor <GOConnor@dcc.com>
Sent: Tuesday, 8 April 2025 5:32 PM
To: Caitlin Meade
Cc: Mike Hales; Paul Dewar; Ashley Cameron; Rohit Dighe; Kevin Huang; Daniella Lambert; Oliver Hoare; Meaghan Philp; Jessica Sapountsis; Michael Williams; Rebecca Dunn; Daisy Cullen; Molly Allen
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]
Attachments: 2025-04-08 - Letter to G+T and ME (re EZIA cat 2) (2023413).pdf; 2025-04-08 Draft Short Minutes of Order (2023413).docx

 External email >

Dear Colleagues,

Please refer to the ***attached** correspondence and enclosure.

Yours faithfully

Grace O'Connor
 Managing Associate



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From: Caitlin Meade <CMeade@gtlaw.com.au>
Sent: Tuesday, 8 April 2025 10:53 AM
To: Grace O'Connor <GOConnor@dcc.com>
Cc: Mike Hales <Mike.Hales@minterellison.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <Oliver.Hoare@minterellison.com>; Meaghan Philp <Meaghan.Philp@minterellison.com>; Jessica Sapountsis <JSapountsis@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]

Dear Colleagues

We refer to your emails below.

The First, Second and Fourth Respondents are available for the case management hearing on the following dates:

- 10 am on 28 April 2025; or
- 9.30 am on 29 April 2025
- 11 am on 30 April 2025.

In the meantime, we note that we have not received any response to our letter dated 3 April 2025 or any indication as to when a response will be provided (which was promised yesterday). Please provide a response to that letter and our clients' proposed orders as soon as possible.

Regards
Rebecca Dunn / Caitlin Meade

Caitlin Meade (She/Her)
Lawyer | Gilbert + Tobin

+61 409 247 665
CMeade@gtlaw.com.au

Level 35, Tower Two, International Towers Sydney
200 Barangaroo Avenue, Barangaroo NSW 2000

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This email and any attachment is confidential between Gilbert + Tobin and the addressee. If it has been sent to you in error, please delete it and notify us. Any opinion expressed in it is not the opinion of Gilbert + Tobin unless that is stated or apparent from its terms.

From: Grace O'Connor <GOConnor@dcc.com>

Sent: Monday, 7 April 2025 3:33 PM

To: Mike Hales <Mike.Hales@minterellison.com>; Rebecca Dunn <RDunn@gtlaw.com.au>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Daniella Lambert <Daniella.Lambert@minterellison.com>; Oliver Hoare <Oliver.Hoare@minterellison.com>; Meaghan Philp <Meaghan.Philp@minterellison.com>; Jessica Sapountsis <JSapountsis@dcc.com>

Cc: Michael Williams <MWilliams@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>

Subject: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]

Dear Colleagues,

In relation to the dates offered by her Honour's Associate that are convenient for the Third Respondent, we confirm that our clients' representatives are similarly available on 28, 29 and 30 April and 1 May.

Yours faithfully,

Grace O'Connor
Managing Associate



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From: Mike Hales <Mike.Hales@minterellison.com>

Sent: Monday, 7 April 2025 1:20 PM

To: Rebecca Dunn <RDunn@gtlaw.com.au>; Paul Dewar <PDewar@dcc.com>; Grace O'Connor <GOConnor@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Daniella Lambert <Daniella.Lambert@minterellison.com>; Oliver Hoare <Oliver.Hoare@minterellison.com>; Meaghan Philp <Meaghan.Philp@minterellison.com>; Jessica Sapountsis <JSapountsis@dcc.com>

Cc: Michael Williams <MWilliams@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>

Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694]

Dear colleagues

In response to the dates offered by Her Honour's Associate this morning, we confirm we are available on 9, 10, 28, 29 and 30 April and 1 May.

Yours sincerely,

Mike Hales

Managing Partner – Western Australia
T +61 8 6189 7825 M +61 411 343 313
mike.hales@minterellison.com

MinterEllison One The Esplanade 1 The Esplanade Perth WA 6000
minterellison.com [Follow us on LinkedIn](#)

MinterEllison.

From: Rebecca Dunn <RDunn@gtlaw.com.au>

Sent: Monday, 7 April 2025 10:12 AM

To: Paul Dewar <PDewar@dcc.com>; Grace O'Connor <GOConnor@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Mike Hales <Mike.Hales@minterellison.com>; Daniella Lambert <Daniella.Lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>; Meaghan Philp <meaghan.philp@minterellison.com>; Jessica Sapountsis <JSapountsis@dcc.com>

Cc: Michael Williams <MWilliams@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>

Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL]

Dear Colleagues

We refer to your email below.

We are making enquiries in relation to the remaining dates provided in the email from her Honour's Associate.

In the meantime, could you please confirm when we will receive a response to our letter and proposed orders (as if there is agreement that is relevant to the next listing).

Regards

Rebecca Dunn/ Caitlin Meade

Rebecca Dunn

Partner | Gilbert + Tobin

+61 409 621 845

RDunn@gtlaw.com.au

**Level 35, Tower Two, International Towers Sydney
200 Barangaroo Avenue, Barangaroo NSW 2000**

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From: Paul Dewar <PDewar@dcc.com>

Sent: Monday, 7 April 2025 11:58 AM

To: Rebecca Dunn <RDunn@gtlaw.com.au>; Grace O'Connor <GOConnor@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Mike Hales <Mike.Hales@minterellison.com>; Daniella Lambert <Daniella.Lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>; Meaghan.Philp@minterellison.com; Jessica Sapountsis <JSapountsis@dcc.com>
Cc: Michael Williams <MWilliams@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>

Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL]

Dear Colleagues

Our client's counsel are no longer available tomorrow. Accordingly, it is not possible for the matter to be listed for tomorrow.

Kind regards

Paul

Paul Dewar

Principal Lawyer



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From: Rebecca Dunn <RDunn@gtlaw.com.au>

Sent: Monday, 7 April 2025 9:30 AM

To: Paul Dewar <PDewar@dcc.com>; Grace O'Connor <GOConnor@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Mike Hales <Mike.Hales@minterellison.com>; Daniella Lambert <Daniella.Lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>; Meaghan.Philp@minterellison.com; Jessica Sapountsis <JSapountsis@dcc.com>

Cc: Michael Williams <MWilliams@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>

Subject: FW: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [ITUSEONLY-LAW.FID86345] [SEC=OFFICIAL]

Dear Colleagues

We refer to the email from her Honour's Associate below.

Our clients' counsel are unable to move commitments for the remainder of this week, but remain available tomorrow. In the interests of progressing the matter expeditiously, we request that the third respondent reconsider its position in relation to listing the matter tomorrow.

Separately, we request that the Applicants provide a response to our letter dated 3 April 2025, and to our clients' proposed short minutes of order.

Regards

Rebecca Dunn/ Caitlin Meade

Rebecca Dunn
Partner | Gilbert + Tobin

+61 409 621 845
RDunn@gtlaw.com.au

Level 35, Tower Two, International Towers Sydney
200 Barangaroo Avenue, Barangaroo NSW 2000

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From: Associate MarkovicJ <Associate.MarkovicJ@fedcourt.gov.au>

Sent: Monday, 7 April 2025 10:24 AM

To: Grace O'Connor <GOConnor@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Mike Hales <Mike.Hales@minterellison.com>; Lachlan McLean <Lachlan.McLean@minterellison.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>

Cc: EA - Markovic J <EA.Markovicj@fedcourt.gov.au>; nsd5272024@fedcourt.gov.au

Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [ITUSEONLY-LAW.FID86345] [SEC=OFFICIAL]

OFFICIAL

Dear practitioners,

I refer to your email below.

The proposed dates are not suitable to her Honour. Her Honour is available to list the proceeding for case management hearing at the following times:

- 9.30 am on 8 – 11 and 29 April and 1 and 2 May 2025;
- 10 am on 28 April 2025; or

- 11 am on 30 April 2025.

Chambers kindly requests the parties confirm which of the above dates is suitable.

Kind regards

Zachary Forrai (he/him) | Associate to The Hon Justice Brigitte Markovic
Federal Court of Australia | Law Courts Building, Queens Square, Sydney NSW 2000
T. 02 8099 8368 | E. Associate.MarkovicJ@fedcourt.gov.au

From: Grace O'Connor <GOConnor@dcc.com>

Sent: Monday, 7 April 2025 10:08 AM

To: Associate MarkovicJ <Associate.MarkovicJ@fedcourt.gov.au>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Mike Hales <Mike.Hales@minterellison.com>; Lachlan McLean <Lachlan.McLean@minterellison.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>

Cc: EA - Markovic J <EA.Markovicj@fedcourt.gov.au>; nsd5272024@fedcourt.gov.au

Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ITUSEONLY-LAW.FID86345]

Caution: This is an external email. DO NOT click links or open attachments unless you recognise the sender and know the content is safe.

Dear Associate

Thank you for your email below. The solicitors for the Respondents are copied in on, and have consented to, this communication.

The legal representatives for the parties are available for a case management hearing on 14 or 15 April 2025. Please let us know if those dates are not convenient for her Honour.

If we may be of any further assistance to her Honour, please let us know.

Yours faithfully

Grace O'Connor
Managing Associate



DAVIES COLLISON CAVE LAW | [dcc.com](https://www.dcc.com)

T +61 3 9254 2888 | **F** +61 3 9254 2770

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From: Associate MarkovicJ <Associate.MarkovicJ@fedcourt.gov.au>

Sent: Monday, 7 April 2025 9:34 AM

To: Rohit Dighe <RDighe@dcc.com>; Grace O'Connor <GOConnor@dcc.com>; Kevin Huang <KHuang@dcc.com>;

Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Mike Hales <Mike.Hales@minterellison.com>; Lachlan McLean <Lachlan.McLean@minterellison.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>
Cc: EA - Markovic J <EA.Markovicj@fedcourt.gov.au>; Associate MarkovicJ <Associate.MarkovicJ@fedcourt.gov.au>; nsd5272024@fedcourt.gov.au
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [ITUSEONLY-LAW.FID86345] [SEC=OFFICIAL]

OFFICIAL

Dear practitioners,

I refer to my email dated 3 April 2025 below.

Chambers kindly requests that the parties confirm whether tomorrow or Wednesday 9 April 2025 is suitable, or otherwise provide alternate suitable dates, for the relisting of the case management hearing.

Kind regards

Zachary Forrai (he/him) | Associate to The Hon Justice Brigitte Markovic
 Federal Court of Australia | Law Courts Building, Queens Square, Sydney NSW 2000
 T. 02 8099 8368 | E. Associate.MarkovicJ@fedcourt.gov.au

From: Associate MarkovicJ
Sent: Thursday, 3 April 2025 3:09 PM
To: 'Rohit Dighe' <RDighe@dcc.com>; 'Grace O'Connor' <GOConnor@dcc.com>; 'Kevin Huang' <KHuang@dcc.com>; 'Paul Dewar' <PDewar@dcc.com>; 'Ashley Cameron' <ACameron@dcc.com>; 'Michael Williams' <MWilliams@gtlaw.com.au>; 'Rebecca Dunn' <RDunn@gtlaw.com.au>; 'Caitlin Meade' <CMeade@gtlaw.com.au>; 'Daisy Cullen' <DCullen@gtlaw.com.au>; 'Mike Hales' <Mike.Hales@minterellison.com>; 'Lachlan McLean' <Lachlan.McLean@minterellison.com>; 'Daniella Lambert' <daniella.lambert@minterellison.com>; 'Oliver Hoare' <oliver.hoare@minterellison.com>
Cc: EA - Markovic J <EA.Markovicj@fedcourt.gov.au>; Associate MarkovicJ <Associate.MarkovicJ@fedcourt.gov.au>
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [ITUSEONLY-LAW.FID86345] [SEC=OFFICIAL]

OFFICIAL

Dear practitioners,

I refer to the case management hearing in the above proceeding tomorrow at 9.30 am.

Due to unforeseen circumstances, the case management hearing will have to be adjourned until either **9.30 am on Tuesday 8 April 2025** or **9.30 am on Wednesday 9 April 2025**.

Chambers kindly requests that the parties confer and confirm by return email which of the proposed dates is suitable for the parties, or if neither is suitable, please provide alternate mutually available dates for the case management hearing. Chambers apologises for any inconvenience caused.

Kind regards

Zachary Forrai (he/him) | Associate to The Hon Justice Brigitte Markovic
 Federal Court of Australia | Law Courts Building, Queens Square, Sydney NSW 2000
 T. 02 8099 8368 | E. Associate.MarkovicJ@fedcourt.gov.au

From: Associate MarkovicJ

Sent: Thursday, 20 March 2025 6:47 PM

To: Rohit Dighe <RDighe@dcc.com>; Grace O'Connor <GOConnor@dcc.com>; Kevin Huang <KHuang@dcc.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Mike Hales <Mike.Hales@minterellison.com>; Lachlan McLean <Lachlan.McLean@minterellison.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>

Cc: EA - Markovic J <EA.Markovicj@fedcourt.gov.au>; Associate MarkovicJ <Associate.MarkovicJ@fedcourt.gov.au>

Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [ITUSEONLY-LAW.FID86345] [SEC=OFFICIAL]

OFFICIAL

Dear practitioners,

I refer to your email below.

I confirm that her Honour has made the proposed orders in Chambers. A sealed copy of her Honour's orders will be available through the Commonwealth Courts Portal shortly. For the avoidance of doubt, I confirm that appearances are not required tomorrow.

Kind regards

Zachary Forrai (he/him) | Associate to The Hon Justice Brigitte Markovic
Federal Court of Australia | Law Courts Building, Queens Square, Sydney NSW 2000
T. 02 8099 8368 | E. Associate.MarkovicJ@fedcourt.gov.au

From: Rohit Dighe <RDighe@dcc.com>

Sent: Thursday, 20 March 2025 6:07 PM

To: Associate MarkovicJ <Associate.MarkovicJ@fedcourt.gov.au>; Grace O'Connor <GOConnor@dcc.com>; Kevin Huang <KHuang@dcc.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Mike Hales <Mike.Hales@minterellison.com>; Lachlan McLean <Lachlan.McLean@minterellison.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>

Cc: EA - Markovic J <EA.Markovicj@fedcourt.gov.au>

Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ITUSEONLY-LAW.FID86345]

Caution: This is an external email. DO NOT click links or open attachments unless you recognise the sender and know the content is safe.

Dear Associate

Thank you for your email below.

The solicitors for the Respondents are copied in on, and have consented to, this communication.

We refer to:

- (a) Orders 4 and 5 of the orders made by her Honour Justice Markovic on 26 February 2025; and

- (b) the case management hearing (**CMH**) listed at 9:30AM on Friday, 21 March 2025 in the above matter.

Despite the Applicants' best efforts and the expenditure of considerable resources, the Applicants were not in a position to complete the steps set out in orders 4 and 5 by 19 March 2025.

The Respondents have agreed to a short extension of time proposed by the Applicants to enable the Applicants to complete the steps in orders 4 and 5. That agreement is reflected in the ***attached** proposed consent orders.

The proposed consent orders include an order that the CMH listed for 21 March 2025 is vacated and re-listed at 9.30am on 4 April 2025. This is on the basis that it would not be an efficient use of resources for a CMH to proceed in the absence of the estimation contemplated in order 5 of the 26 February 2025 orders.

We would be grateful if you could bring the proposed orders to her Honour's attention, and let us know if her Honour is prepared to make the proposed orders in chambers.

Yours faithfully

Rohit Dighe
Associate

Paul Dewar
Principal Lawyer



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From: Associate MarkovicJ <Associate.MarkovicJ@fedcourt.gov.au>

Sent: Thursday, 20 March 2025 5:44 PM

To: Grace O'Connor <GOConnor@dcc.com>; Associate MarkovicJ <Associate.MarkovicJ@fedcourt.gov.au>; Kevin Huang <KHuang@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Mike Hales

<Mike.Hales@minterellison.com>; Lachlan McLean <Lachlan.McLean@minterellison.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>

Cc: EA - Markovic J <EA.Markovicj@fedcourt.gov.au>; Associate MarkovicJ <Associate.MarkovicJ@fedcourt.gov.au>

Subject: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL]

OFFICIAL

Dear practitioners,

The above proceeding is listed for case management hearing before Justice Markovic **tomorrow at 9.30 am AEDT**. Unless Chambers has indicated otherwise, I confirm that the case management hearings will be conducted in person.

Chambers requests that the parties provide via return email any proposed consent or competing short minutes of order (in Word format) and any other documents upon which the parties seek to rely at the case management hearing.

Kind regards

Zachary Forrai (he/him) | Associate to The Hon Justice Brigitte Markovic
Federal Court of Australia | Law Courts Building, Queens Square, Sydney NSW 2000
T. 02 8099 8368 | E. Associate.MarkovicJ@fedcourt.gov.au

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ACKNOWLEDGEMENT OF COUNTRY

MinterEllison respectfully acknowledges the Traditional Custodians on whose lands we live, work and learn. We offer our respects to Elders past and present.

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BY EMAIL:

MWilliams@gtlaw.com.au;
RDunn@gtlaw.com.au
Mike.Hales@minterellison.com;
Daniella.Lambert@minterellison.com

Our Ref: 2023413**Your Refs:** MJW:RXD:1058625
1496352**dcc.com****Attention:** Michael Williams
Rebecca Dunn
Mike Hales
Daniella Lambert**Contact:** Paul Dewar
PDewar@dcc.comGrace O'Connor
GOConnor@dcc.com

8 April 2025

Mr Michael Williams / Ms Rebecca Dunn
Gilbert + Tobin
L35, Tower Two, International Towers Sydney
200 Barangaroo Avenue
Barangaroo NSW 2000

and

Mr Mike Hales / Ms Daniella Lambert
MinterEllison
One The Esplanade, Level 9
1 The Esplanade
Perth WA 6000

**Fortescue Limited & Ors v Element Zero Pty Limited & Ors,
Federal Court Proceeding No. NSD527 of 2024**

Dear Colleagues

We refer to your letter dated 3 April 2025 (**Your Letter**) and the enclosed short minutes of order (**Your short minutes of order**).

To facilitate the efficient progress of our clients' discovery, our clients propose that order 1 of Your short minutes of order be sent to Her Honour, to be made in chambers, with the balance of each parties' competing orders (concerning the dates by which our client would give discovery) to be ventilated before her Honour at the next listing of the matter.

The utility of having these orders made in advance is that it will allow our clients to provide instructions to its discovery manager and review team in respect of EZIA Category 2 at an earlier opportunity, ahead of the next listing of the matter.

While we do not propose to respond to each of the matters raised in Your Letter in this letter, we do refer to the final paragraph on page 1 of Your Letter where your clients have indicated that they do not consider the deletion of the words "and/or Fortescue" from EZIA Category 2 "to exclude the work undertaken by "other employees", or to narrow the meaning of Ionic Liquid R&D or Ionic Liquid R&D Information".

With respect, this reflects a misunderstanding of the pleadings. While "*Ionic Liquid R&D Information*" is defined as "information created by Dr Kolodziejczyk, Dr Winther-Jensen and/or other employees of FMGPS in undertaking Ionic Liquid R&D" (see FASOC [13]), "*Ionic Liquid R&D*" is defined as particular confidential research and development work having at least the features in FASAOC [12(a)] to [12(f)], and is work undertaken by each of Dr Kolodziejczyk and Dr Winther-Jensen and other employees of FMGPS **caused by** Dr Kolodziejczyk and Dr Winther-Jensen: see FASOC [12].

By contrast, the words "and/or Fortescue" that are currently contained in EZIA Category 2 concerns work that is unconnected with the work undertaken by Dr Kolodziejczyk and Dr Winther-Jensen. Accordingly, the removal of those words would exclude work undertaken by "other employees" insofar as they were not caused to undertake that work by Dr Kolodziejczyk and/or Dr Winther-Jensen.

Please advise whether these orders can be made in chambers by consent.

Yours faithfully

A handwritten signature in black ink, reading "David Collison Cave Law". The signature is written in a cursive, flowing style.

DAVIES COLLISON CAVE LAW

Form 1
Rule 2.13(2)

Short Minutes of Order

No. NSD 527 of 2024

Federal Court of Australia
District Registry: New South Wales
Division: General

FORTESCUE LIMITED ACN 002 594 872 and others named in the schedule

Applicants

ELEMENT ZERO PTY LIMITED ACN 664 342 081 and others named in the schedule

Respondents

ORDER

JUDGE: Justice Markovic

DATE OF ORDER: April 2024

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Discovery Category 2 in Schedule 3 to the orders dated 26 February 2025 (**Orders**) be amended to delete the words “and/or Fortescue”, and add “or” after the words “Second Respondent” so the category reads as follows:

“Documents recording the Ionic Liquid R&D Information and any research or development work undertaken in relation to Ionic Liquid R&D by the Second Respondent or the Third Respondent ~~and/or Fortescue~~ during the period from 25 March 2019 to 12 November 2021, including approvals of research, research instructions, work undertaken, target timescales for that work, funding approvals and budgets and invoices for equipment and products used in such processes”.

Date: April 2025

Filed on behalf of	Fortescue Limited, Fortescue Future Industries Pty Ltd and FMG Personnel Services Pty Ltd, the Applicants		
Prepared by	Paul Dewar		
Law firm	Davies Collison Cave Law		
Tel	02 9293 1000	Fax	02 9262 1080
Email	PDewar@dcc.com		
Address for service	Level 4, 7 Macquarie Place, Sydney NSW 2000		

Schedule

No. NSD 527 of 2024

Federal Court of Australia

District Registry: New South Wales

Division: General

Applicants

Second Applicant:	FORTESCUE FUTURE INDUSTRIES PTY LTD ACN 625 711 373
Third Applicant:	FMG PERSONNEL SERVICES PTY LTD ACN 159 057 646

Respondents

Second Respondent:	BARTLOMIEJ PIOTR KOLODZIEJCZYK
Third Respondent:	BJORN WINTHER-JENSEN
Fourth Respondent:	MICHAEL GEORGE MASTERMAN

Caitlin Meade

From: Caitlin Meade
Sent: Thursday, 17 April 2025 2:01 PM
To: Grace O'Connor
Cc: Mike Hales; Paul Dewar; Ashley Cameron; Rohit Dighe; Kevin Huang; Daniella Lambert; Oliver Hoare; Meaghan Philp; Jessica Sapountsis; Michael Williams; Rebecca Dunn; Daisy Cullen; Molly Allen
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]
Attachments: Letter to DCC (EZIA cat 2) - 17 April 2025.pdf

Dear Colleagues

Please see attached.

Regards
 Rebecca Dunn / Caitlin Meade

From: Grace O'Connor <GOConnor@dcc.com>
Sent: Tuesday, 8 April 2025 5:32 PM
To: Caitlin Meade <CMeade@gtlaw.com.au>
Cc: Mike Hales <Mike.Hales@minterellison.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <Oliver.Hoare@minterellison.com>; Meaghan Philp <Meaghan.Philp@minterellison.com>; Jessica Sapountsis <JSapountsis@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]

 External email >

Dear Colleagues,

Please refer to the ***attached** correspondence and enclosure.

Yours faithfully

Grace O'Connor
 Managing Associate



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Partner Michael Williams
 Contact Rebecca Dunn
 T +61 2 9263 4625
 rdunn@gtlaw.com.au
 Our ref MJW:RXD:1058625



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 www.gtlaw.com.au

17 April 2025

By email: pdewar@dcc.com

Mr Paul Dewar
 Partner
 Davies Collison Cave
 Level 4, 7 Macquarie Place
 SYDNEY NSW 2000

Dear Colleagues

Fortescue Limited & Ors v Element Zero Pty Ltd & Ors - Proceedings in the Federal Court of Australia (NSD527/2024)

We refer to your letter dated 8 April 2025, and the short minutes enclosed thereto.

We remind you that our letter dated 3 April 2025 addresses three matters:

- 1 **Category 2:** the First, Second and Fourth Respondents are willing to agree to an amendment to discovery category 2 to remove the words “and/or Fortescue”, in order to progress this matter more efficiently.
- 2 **Timing of production:** the First, Second and Fourth Respondents would be willing to agree to a timetable that the Applicants provide discovery under all categories (including amended Category 2) by 18 July 2025.
- 3 **Evidence:** the First, Second and Fourth Respondents position is that an order should be made for the Applicants to file evidence in chief by 31 July 2025.

However, your letter fails to address items 2 and 3 above. This is despite our request for a response to our letter, including your clients’ position on the proposed orders, on a number of occasions (see correspondence from Rebecca Dunn dated 7 April 2025 at 9:30am, 10:12am, 12:12pm and correspondence from Caitlin Meade dated 8 April 2025 at 10:53am).

We are therefore not in a position to provide a substantive response to your letter until we have received a response which addresses the other two matters. Once we have received a response to the additional two matters we can consider our position in its entirety.

We reject any suggestion that it is necessary for the short minute regarding category 2 to be made in order to “facilitate the efficient progress” of your clients’ discovery or to enable your clients to “provide instructions to its discovery manager and review team” in respect of category 2 “at an earlier opportunity, ahead of the next listing of the matter”. There is no need for an order to be made before your clients start this process. It should have already begun. We have written to you multiple times requesting confirmation that your clients have commenced and progressed discovery. No clear response has been received. We remain concerned that your clients are not efficiently and expeditiously progressing their discovery.

As for your comments about the impact of the deletion of “and/or Fortescue”, while we do not necessarily agree with the Applicants’ position, we note it and repeat that our clients reserve the right to press for additional discovery if they consider it necessary to do so after your clients have completed their evidence.

Please provide your response to items 2 and 3 as soon as possible, and in any event by **4pm on 23 April 2025**.

Our clients' rights are reserved.

Yours faithfully
Gilbert + Tobin

Gilbert + Tobin

Michael Williams
Partner
+61 2 9263 4271
mwilliams@gtlaw.com.au

Rebecca Dunn
Partner
+61 2 9263 4625
rdunn@gtlaw.com.au

Caitlin Meade

From: Rohit Dighe <RDighe@dcc.com>
Sent: Wednesday, 23 April 2025 6:05 PM
To: Caitlin Meade; Grace O'Connor
Cc: Mike Hales; Paul Dewar; Ashley Cameron; Kevin Huang; Daniella Lambert; Oliver Hoare; Meaghan Philp; Jessica Sapountsis; Michael Williams; Rebecca Dunn; Daisy Cullen; Molly Allen
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]
Attachments: 2025-04-23 - Letter to G+T (EZIA cat 2).pdf

External email >

Dear Colleagues

Please see **attached** correspondence.

Yours faithfully

Rohit Dighe **Paul Dewar**
 Associate Principal Lawyer



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From: Caitlin Meade <CMeade@gtlaw.com.au>
Sent: Wednesday, 23 April 2025 5:34 PM
To: Grace O'Connor <GOConnor@dcc.com>
Cc: Mike Hales <Mike.Hales@minterellison.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <Oliver.Hoare@minterellison.com>; Meaghan Philp <Meaghan.Philp@minterellison.com>; Jessica Sapountsis <JSapountsis@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]

Dear Colleagues

We refer to our letter dated 17 April 2025, to which we have not received a response.

Despite numerous requests, the Applicants have failed to provide a substantive response to Gilbert + Tobin's letter dated 3 April 2025 or the proposed orders. The Applicants have now had 3 weeks to consider the proposed orders and no explanation for this delay has been provided.

BY EMAIL ONLYMWilliams@gtlaw.com.au; RDunn@gtlaw.com.au

Mr Michael Williams / Ms Rebecca Dunn
Gilbert + Tobin
L35, Tower Two, International Towers Sydney
200 Barangaroo Avenue
Barangaroo NSW 2000

23 April 2025

Dear Colleagues

**Fortescue Limited & Ors v Element Zero Pty Ltd. & Ors,
Federal Court proceeding no. NSD 527 of 2024**

We refer to your letter of 17 April 2025 (**Your Letter**) and our letter of 2 April 2025 (**Our Letter**).

Point 2 of Your Letter

In response to point 2 of Your Letter (timing of production), as set out in Our Letter, our clients are not in a position to give all of their discovery by 18 July 2025.

Rather, as set out in paragraphs [4] and [14] of Our Letter, our clients estimate they will require until **18 July 2025** to give discovery pursuant to Tranche 1 (EZIA cats 3, 5, 6, 8, and 10), and until **12 September 2025** to give discovery pursuant to Tranche 2 (EZIA cat 1, and EZIA cat 2 as the parties agree can be amended).

If the amendments to EZIA cat 2 are not made, then our clients repeat their estimate at [4] of Our Letter, being that they estimate they would require until 19 December 2025 to give discovery under Tranche 2.

Point 3 of Your Letter

In response to point 3 of Your Letter (evidence timetable), our clients do not agree to a timetable where they would be required to put on their evidence in chief by 31 July 2025. Plainly, significant resources of our clients are presently being directed to giving discovery pursuant to the categories sought by your clients. Even if our clients were somehow in a position to give all of their discovery by 18 July 2025, it is plainly unreasonable to expect our clients to put on their evidence a fortnight later on 31 July 2025.

In any event our clients are not in a position to provide any estimate as to the time they require to prepare their evidence without reviewing the discovery to be given by your clients, and the Third Respondent. We note that the current orders required that discovery to be given yesterday. Your clients have not informed our clients why they have not met that deadline. The reason for the delay is not apparent, particularly in circumstances where your clients had initially agreed to give that discovery a fortnight ago, on 7 April 2025.

Point 1 of Your Letter

The basis for our clients seeking the amendment to EZIA cat 2 be made in chambers was to provide our clients' review team with certainty concerning the discovery process. Plainly, if the amendments were not made, then as set out in [2] and [14] of Our Letter, our

clients would need to take into account resourcing for an additional ~200,000 potentially relevant documents in their review pool. If, by the passage in Your Letter, *"There is no need for an order to be made before your clients start this process. It should have already begun"*, you intend to convey that it is your client's position that our clients may instruct their review team on the basis that EZIA cat 2 is to be amended, then we do not see why your clients disagree to the amendment in fact being made ahead of the next case management hearing.

For completeness, we reject any speculation by your clients that our clients are not "efficiently and expeditiously progressing their discovery".

Yours faithfully

A handwritten signature in blue ink, appearing to be 'Paul Dewar', with a stylized, looping flourish.

Paul Dewar

Principal

DAVIES COLLISON CAVE LAW

PDewar@dcc.com

Caitlin Meade

From: Grace O'Connor <GOConnor@dcc.com>
Sent: Monday, 28 April 2025 1:04 PM
To: Rebecca Dunn; Rohit Dighe; Caitlin Meade
Cc: Mike Hales; Paul Dewar; Ashley Cameron; Kevin Huang; Daniella Lambert; Oliver Hoare; Meaghan Philp; Jessica Sapountsis; Michael Williams; Daisy Cullen; Molly Allen
Subject: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]
Attachments: 20250428 - Applicants' Short Minutes of Order (2023413).docx

 External email >

Dear Colleagues,

Please find **attached** the draft short minutes of order that the Applicants intend to seek at the CMH on Wednesday 30 April.

Please advise by **7pm tonight** whether the orders can be agreed, including by providing a date by which the First, Second and Fourth Respondents intend to give discovery as per proposed order 1.

If an agreement cannot be reached or a reply is not otherwise received from the Respondents, we intend to send the draft orders to her Honour's Associate tomorrow morning. We otherwise intend to shortly write to the Associate in response to their email of this morning requesting that a MS Teams link be made available so that our client and its solicitors can observe the hearing.

Yours faithfully

Grace O'Connor
 Managing Associate



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 We recognise their ongoing connection to land, sea and community.*

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From: Rebecca Dunn <RDunn@gtlaw.com.au>
Sent: Thursday, 24 April 2025 7:02 PM
To: Rohit Dighe <RDighe@dcc.com>; Caitlin Meade <CMeade@gtlaw.com.au>
Cc: Mike Hales <Mike.Hales@minterellison.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Kevin Huang <KHuang@dcc.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <Oliver.Hoare@minterellison.com>; Meaghan Philp <Meaghan.Philp@minterellison.com>; Jessica Sapountsis <JSapountsis@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>; Grace O'Connor <GOConnor@dcc.com>

Form 1
Rule 2.13(2)

Applicants' Short Minutes of Order

No. NSD 527 of 2024

Federal Court of Australia
District Registry: New South Wales
Division: General

FORTESCUE LIMITED ACN 002 594 872 and others named in the schedule

Applicants

ELEMENT ZERO PTY LIMITED ACN 664 342 081 and others named in the schedule

Respondents

ORDER

JUDGE: Justice Markovic

DATE OF ORDER: __ April 2024

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. The date for compliance by the First, Second and Fourth Respondents with order 1 of the orders dated 26 February 2025 (**Orders**), as varied by order 3 of the orders dated 21 March 2025, be extended to [a date to be determined].
2. The date for compliance by the Third Respondent with order 1 of the Orders, as varied by order 3 of the orders dated 21 March 2025, be extended to 12 May 2025.
3. By 9 June 2025, each of the Respondents give non-standard discovery pursuant to rules 20.15 to 20.17 of the *Federal Court Rules 2011* (Cth) of all documents within his/its control within **Annexure A** and responding to the searches set out in **Annexure B** to these orders.

Filed on behalf of	Fortescue Limited, Fortescue Future Industries Pty Ltd and FMG Personnel Services Pty Ltd, the Applicants		
Prepared by	Paul Dewar		
Law firm	Davies Collison Cave Law		
Tel	02 9293 1000	Fax	02 9262 1080
Email	PDewar@dcc.com		
Address for service	Level 4, 7 Macquarie Place, Sydney NSW 2000		

4. Discovery Category 2, of Schedule 3 to the Orders (**EZ Categories**), be amended to delete the words “and/or Fortescue”, and add “or” after the words “Second Respondent” so the category reads as follows:

“Documents recording the Ionic Liquid R&D Information and any research or development work undertaken in relation to Ionic Liquid R&D by the Second Respondent or the Third Respondent ~~and/or Fortescue~~ during the period from 25 March 2019 to 12 November 2021, including approvals of research, research instructions, work undertaken, target timescales for that work, funding approvals and budgets and invoices for equipment and products used in such processes”.

5. The dates on which the Applicants are to give discovery pursuant to order 3 of the Orders are:
- (a) 19 July 2025 for documents within categories 3, 5, 6, 8 and 10 of the EZ Categories, and category 2 of Schedule 4 to the Orders; and
 - (b) 12 September 2025 for documents within categories 1 and 2 of the EZ Categories.
6. The matter be listed for a case management hearing at 9.30am on **[a date in the period 28 – 31 July 2025]**.

Date: __ April 2025

ANNEXURE A

1. To the extent not covered by category 1 of Schedule 1 as set out in the orders of Markovic J dated 26 February 2025, all documents, which record any of:

(a) the “*preliminary work that we have done in ionic liquids and low temperature iron ore reduction*” that Dr Kolodziejczyk referred to in an email to [suppressed name] on 21 October 2020 (see Bhatt AIB-7);

Note: the Third Respondent is not required to give discovery in this category.

(b) the “*patent application for our low-temperature electrochemical ores reduction in ionic liquid electrolytes*”, being the patent application Dr Kolodziejczyk reported he was “*currently working on*” in the email to Andrew Forrest and Michael Masterman dated 22 December 2020 (see Bhatt AIB-12 p 93), and any drafts thereof;

(c) the “*R&D roadmap*” that Dr Kolodziejczyk told Chris McMahan, John Paul Olivier and Michael Masterman that he was “*currently developing*” in the email dated 6 January 2021 (see Bhatt AIB-15 p 106), and any drafts thereof.

ANNEXURE B

Category	Search terms	Date
2(a)	<p>(1)</p> <p>[(iron OR Fe OR ferric OR ferrous OR hematite* OR haematite* OR magnetite* OR goethite*) OR ("FeO" OR "Fe2O3" OR "Fe2O3" OR "Fe3O4" OR "Fe3O4")]</p> <p>AND</p> <p>[electrolyte* OR solvent* OR solution* OR "ionic liquid" OR "ionic liquids" OR "ionic mixture" OR "ionic mixtures" OR eutectic* OR hydroxide* OR "KOH" OR "NaOH" OR "LiOH"]</p>	<p>For documents to be discovered by the First, Second and Fourth Respondents: 25 March 2019 to 21 October 2020</p> <p>Note: the Third Respondent is not required to give discovery in this category.</p>
	<p>(2)</p> <p>[(iron OR Fe OR ferric OR ferrous OR hematite* OR haematite* OR magnetite* OR goethite*) OR ("FeO" OR "Fe2O3" OR "Fe2O3" OR "Fe3O4" OR "Fe3O4")]</p> <p>AND</p> <p>[reduc* OR electroreduc* OR electrowin* OR electrodeposit* OR "Direct Electrochemical Reduction" OR "low temperature" OR "low-temperature" OR "low temp" OR "low-temp" OR "LTE"]</p>	

Category	Search terms	Date
2(b)	<p>(3)</p> <p>[“patent” OR specification* OR “invention disclosure”]</p> <p>AND</p> <p>[(green w/1 (“iron” OR “steel”)) OR ((“iron” OR “Fe” OR “ferric” OR “ferrous” OR “copper” OR “Cu” OR “nickel” OR “Ni” OR metal*) w/5 (oxide* OR ore* OR complex*)) OR (hematite* OR haematite* OR magnetite* OR goethite*) OR (“FeO” OR “Fe2O3” OR “Fe2O3” OR “Fe3O4” OR “Fe3O4”)]</p> <p>AND</p> <p>[electrolyte* OR solvent* OR solution* OR “ionic liquid” OR “ionic liquids” OR “ionic mixture” OR “ionic mixtures” OR eutectic* OR hydroxide* OR “KOH” OR “NaOH” OR “LiOH”]</p>	<p>For documents to be discovered by the First, Second and Fourth Respondents: 1 December 2020 to 12 November 2021</p> <p>For documents to be discovered by the Third Respondent: 15 February 2021 to 12 November 2021</p>
	<p>(4)</p> <p>[“patent” OR specification* OR “invention disclosure”]</p> <p>AND</p> <p>[(green w/1 (“iron” OR “steel”)) OR ((“iron” OR “Fe” OR “ferric” OR “ferrous” OR “copper” OR “Cu” OR “nickel” OR “Ni” OR metal*) w/5 (oxide* OR ore* OR complex*)) OR (hematite* OR haematite* OR magnetite* OR goethite*) OR (“FeO” OR “Fe2O3” OR “Fe2O3” OR “Fe3O4” OR “Fe3O4”)]</p> <p>AND</p> <p>[reduc* OR electroreduc* OR electrowin* OR electrodeposit* OR “Direct Electrochemical Reduction” OR “low temperature” OR “low-temperature” OR “low temp” OR “low-temp” OR “LTE”]</p>	

Category	Search terms	Date
2(c)	<p data-bbox="402 275 440 310">(5)</p> <p data-bbox="402 348 1078 474">[(“research” OR develop* OR “R&D”) w/5 (“roadmap” OR “road map” OR “road-map” OR plan OR write-up* OR writeup* OR “write up”)]</p> <p data-bbox="402 512 464 548">AND</p> <p data-bbox="402 585 1078 762">[(green w/1 “steel”) OR (“iron” OR “Fe” OR “ferric” OR “ferrous” OR hematite* OR haematite* OR magnetite* OR goethite*) OR (“FeO” OR “Fe2O3” OR “Fe2O3” OR “Fe3O4” OR “Fe3O4”)]</p>	<p data-bbox="1105 275 1398 541">For documents to be discovered by the First, Second and Fourth Respondents: 6 January 2021 to 12 November 2021</p> <p data-bbox="1105 585 1398 804">For documents to be discovered by the Third Respondent: 15 February 2021 to 12 November 2021</p>

Schedule

No. NSD 527 of 2024

Federal Court of Australia

District Registry: New South Wales

Division: General

Applicants

Second Applicant:	FORTESCUE FUTURE INDUSTRIES PTY LTD ACN 625 711 373
Third Applicant:	FMG PERSONNEL SERVICES PTY LTD ACN 159 057 646

Respondents

Second Respondent:	BARTLOMIEJ PIOTR KOLODZIEJCZYK
Third Respondent:	BJORN WINTHER-JENSEN
Fourth Respondent:	MICHAEL GEORGE MASTERMAN

Caitlin Meade

From: Rebecca Dunn <RDunn@gtlaw.com.au>
Sent: Monday, 28 April 2025 6:23 PM
To: Grace O'Connor; Rohit Dighe; Caitlin Meade
Cc: Mike Hales; Paul Dewar; Ashley Cameron; Kevin Huang; Daniella Lambert; Oliver Hoare; Meaghan Philp; Jessica Sapountsis; Michael Williams; Daisy Cullen; Molly Allen
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]
Attachments: 3472-8120-7865_1_EZ Respondents' Short Minutes of Order.docx

Dear Colleagues

Our clients do not consent to the proposed orders attached to your email below.

Attached are our clients' proposed orders (which largely reflect the orders we circulated on 3 April 2025, with the addition of an order extending the time for the third respondent's discovery).

Please let us know if your clients consent to the attached orders.

Regards

Rebecca Dunn/ Caitlin Meade

Rebecca Dunn
 Partner | Gilbert + Tobin

+61 409 621 845
 RDunn@gtlaw.com.au

Level 35, Tower Two, International Towers Sydney
200 Barangaroo Avenue, Barangaroo NSW 2000

Gilbert + Tobin acknowledges Australia's First Nations peoples as the Traditional Custodians of this land. We pay our respects to Elders, both past and present, and extend that respect to all First Nations peoples across these lands.

This email and any attachment is confidential between Gilbert + Tobin and the addressee. If it has been sent to you in error, please delete it and notify us. Any opinion expressed in it is not the opinion of Gilbert + Tobin unless that is stated or apparent from its terms.

From: Grace O'Connor <GOConnor@dcc.com>
Sent: Monday, 28 April 2025 1:04 PM
To: Rebecca Dunn <RDunn@gtlaw.com.au>; Rohit Dighe <RDighe@dcc.com>; Caitlin Meade <CMeade@gtlaw.com.au>
Cc: Mike Hales <Mike.Hales@minterellison.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Kevin Huang <KHuang@dcc.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <Oliver.Hoare@minterellison.com>; Meaghan Philp <Meaghan.Philp@minterellison.com>; Jessica Sapountsis <JSapountsis@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>
Subject: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]

Dear Colleagues,

Form 1
Rule 2.13(2)

~~Applicants'~~ Respondents' Short Minutes of Order

No. NSD 527 of 2024

Federal Court of Australia
District Registry: New South Wales
Division: General

FORTESCUE LIMITED ACN 002 594 872 and others named in the schedule

Applicants

ELEMENT ZERO PTY LIMITED ACN 664 342 081 and others named in the schedule

Respondents

ORDER

JUDGE: Justice Markovic

DATE OF ORDER: 30 April 2024

WHERE MADE: Sydney

THE COURT ORDERS THAT:

- Discovery Category 2 in Schedule 3 to the orders dated 26 February 2025 (**Orders**) be amended to delete the words "and/or Fortescue", and add "or" after the words "Second Respondent" so the category reads as follows:

"Documents recording the Ionic Liquid R&D Information and any research or development work undertaken in relation to Ionic Liquid R&D by the Second Respondent or the Third Respondent ~~and/or Fortescue~~ during the period from 25 March 2019 to 12 November 2021, including approvals of research, research instructions, work undertaken, target timescales for that work, funding approvals and budgets and invoices for equipment and products used in such processes".

- The Third Respondent is to give discovery pursuant to order 1 of the Orders by 12 May 2025.

Filed on behalf of	Fortescue Limited, Fortescue Future Industries Pty Ltd and FMG Personnel Services Pty Ltd, the Applicants <u>First, Second and Fourth Respondents</u>		
Prepared by	Michael Williams <u>Paul Dewar</u>		
Law firm	Gilbert + Tobin Davies Collison Cave Law		
Tel	02 9263400093-1000	Fax	02 9262 1080
Email	mwilliams@gtlaw.com.au <u>PDewar@dcc.com</u>		
Address for service	Level 35, 200 Barangaroo Ave, Barangaroo NSW 2000 <u>4, 7 Macquarie Place, Sydney NSW 2000</u>		

(a) — ~~The The dates on which the~~ Applicants are to give discovery pursuant to order 3 of the Orders by are:

~~2.3. 198 July 2025 for documents within categories 3, 5, 6, 8 and 10 of Schedule 3 to the Orders (EZ Categories) and category 2 of Schedule 4 to the Orders;~~

(a) — ~~12 September 2025 for documents within categories 1 and 2 of the EZ Categories.~~

4. The Applicants file and serve evidence in chief by 31 July 2025.

3.5. The matter be listed for a case management hearing at 9.30 am on a day during the period 17-20 June 2025 week commencing 4 August 2025.

Date: April 2025

Schedule

No. NSD 527 of 2024

Federal Court of Australia

District Registry: New South Wales

Division: General

Applicants

Second Applicant:	FORTESCUE FUTURE INDUSTRIES PTY LTD ACN 625 711 373
Third Applicant:	FMG PERSONNEL SERVICES PTY LTD ACN 159 057 646

Respondents

Second Respondent:	BARTLOMIEJ PIOTR KOLODZIEJCZYK
Third Respondent:	BJORN WINTHER-JENSEN
Fourth Respondent:	MICHAEL GEORGE MASTERMAN

Caitlin Meade

From: Rebecca Dunn <RDunn@gtlaw.com.au>
Sent: Monday, 7 April 2025 9:55 AM
To: Grace O'Connor; Caitlin Meade; Oliver Hoare; Michael Williams; Daisy Cullen; Mike Hales; Daniella Lambert; Meaghan.Philp@minterellison.com
Cc: Paul Dewar; Rohit Dighe; Jessica Sapountsis; Kevin Huang
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8480918] [ITUSEONLY-LAW.FID86345]

Categories: Filed to ND

Dear Colleagues

We refer to your email below.

Thank you for the confirmation that your clients "continue to work in pursuit of meeting their obligations". It is not entirely clear to us what this means. On the basis that this means that your clients have commenced their discovery review, we are content for the CMC to be deferred until 14 or 15 April 2025.

Regards

Rebecca Dunn/ Caitlin Meade

Rebecca Dunn
Partner | Gilbert + Tobin

+61 409 621 845
 RDunn@gtlaw.com.au

Level 35, Tower Two, International Towers Sydney
200 Barangaroo Avenue, Barangaroo NSW 2000

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From: Grace O'Connor <GOConnor@dcc.com>
Sent: Monday, 7 April 2025 9:09 AM
To: Rebecca Dunn <RDunn@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Oliver Hoare <oliver.hoare@minterellison.com>; Michael Williams <MWilliams@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Mike Hales <Mike.Hales@minterellison.com>; Daniella Lambert <Daniella.Lambert@minterellison.com>; Meaghan.Philp@minterellison.com
Cc: Paul Dewar <PDewar@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Jessica Sapountsis <JSapountsis@dcc.com>; Kevin Huang <KHuang@dcc.com>
Subject: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8480918] [ITUSEONLY-LAW.FID86345]

Dear Colleagues,

We refer to your email below.

We reject the suggestion that the deferral of the CMH (which was at the request of her Honour) may result in any "delay".

Our clients continue to work in pursuit of meeting their obligations under order 3 of the 26 February 2025 orders, and your clients have no basis to suggest otherwise.

In the circumstances, please confirm that you are content for us to proceed to advise her Honour that the parties are available for a CMC on 14 or 15 April, if those dates are convenient for her Honour.

Yours faithfully

Grace O'Connor
Managing Associate



DAVIES COLLISON CAVE LAW | dcc.com

T +61 3 9254 2888 | **F** +61 3 9254 2770

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From: Rebecca Dunn <RDunn@gtlaw.com.au>

Sent: Friday, 4 April 2025 5:29 PM

To: Rohit Dighe <RDighe@dcc.com>; Oliver Hoare <Oliver.Hoare@minterellison.com>; Michael Williams <MWilliams@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>

Cc: Paul Dewar <PDewar@dcc.com>; Grace O'Connor <GOConnor@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Kevin Huang <KHuang@dcc.com>; Mike Hales <Mike.Hales@minterellison.com>; Daniella Lambert <Daniella.Lambert@minterellison.com>; Meaghan Philp <Meaghan.Philp@minterellison.com>

Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8480918] [ITUSEONLY-LAW.FID86345]

Dear Colleagues

Our clients' counsel can move some commitments to make themselves available on 14 or 15 April 2025. However, we are concerned by the slippage of the date and the delay it may cause. As such, we are prepared to agree the matter being listed on 14 or 15 April 2025 on the basis that the Applicants confirm that they have commenced discovery and are prosecuting it efficiently.

If that assurance is not received, we require the matter to be listed on 8 April 2025.

Regards

Rebecca Dunn/ Caitlin Meade

Rebecca Dunn
Partner | Gilbert + Tobin

+61 409 621 845
RDunn@gtlaw.com.au

Level 35, Tower Two, International Towers Sydney
200 Barangaroo Avenue, Barangaroo NSW 2000

Caitlin Meade

From: Paul Dewar <PDewar@dcc.com>
Sent: Monday, 7 April 2025 12:17 PM
To: Rebecca Dunn; Grace O'Connor; Ashley Cameron; Rohit Dighe; Kevin Huang; Jessica Sapountsis
Cc: Michael Williams; Caitlin Meade; Daisy Cullen; Molly Allen
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL]
Categories: Filed to ND

 External email >

Thank you Rebecca and Caitlin

I note your enquiry in relation to the letter. I will consider that enquiry and respond later today.

Kind regards

Paul

Paul Dewar
 Principal Lawyer



DAVIES COLLISON CAVE LAW | dcc.com

T +61 2 9293 1000 | **F** +61 2 9262 1080

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From: Rebecca Dunn <RDunn@gtlaw.com.au>
Sent: Monday, 7 April 2025 10:12 AM
To: Paul Dewar <PDewar@dcc.com>; Grace O'Connor <GOConnor@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Mike Hales <Mike.Hales@minterellison.com>; Daniella Lambert <Daniella.Lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>; Meaghan.Philp@minterellison.com; Jessica Sapountsis <JSapountsis@dcc.com>
Cc: Michael Williams <MWilliams@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL]

Dear Colleagues

We refer to your email below.

We are making enquiries in relation to the remaining dates provided in the email from her Honour's Associate.

In the meantime, could you please confirm when we will receive a response to our letter and proposed orders (as if there is agreement that is relevant to the next listing).

Regards

Rebecca Dunn/ Caitlin Meade

Rebecca Dunn

Partner | Gilbert + Tobin

+61 409 621 845

RDunn@gtlaw.com.au

**Level 35, Tower Two, International Towers Sydney
200 Barangaroo Avenue, Barangaroo NSW 2000**

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This email and any attachment is confidential between Gilbert + Tobin and the addressee. If it has been sent to you in error, please delete it and notify us. Any opinion expressed in it is not the opinion of Gilbert + Tobin unless that is stated or apparent from its terms.

From: Paul Dewar <PDewar@dcc.com>

Sent: Monday, 7 April 2025 11:58 AM

To: Rebecca Dunn <RDunn@gtlaw.com.au>; Grace O'Connor <GOConnor@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Mike Hales <Mike.Hales@minterellison.com>; Daniella Lambert <Daniella.Lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>; Meaghan Philp <Meaghan.Philp@minterellison.com>; Jessica Sapountsis <JSapountsis@dcc.com>
Cc: Michael Williams <MWilliams@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>

Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL]

Dear Colleagues

Our client's counsel are no longer available tomorrow. Accordingly, it is not possible for the matter to be listed for tomorrow.

Kind regards
Paul

Paul Dewar

Principal Lawyer



DAVIES COLLISON CAVE LAW | dcc.com

T +61 2 9293 1000 | **F** +61 2 9262 1080

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We recognise their ongoing connection to land, sea and community.*

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From: Rebecca Dunn <RDunn@gtlaw.com.au>

Sent: Monday, 7 April 2025 9:30 AM

To: Paul Dewar <PDewar@dcc.com>; Grace O'Connor <GOConnor@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Mike Hales <Mike.Hales@minterellison.com>; Daniella Lambert <Daniella.Lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>; Meaghan Philp <Meaghan.Philp@minterellison.com>; Jessica Sapountsis <JSapountsis@dcc.com>
Cc: Michael Williams <MWilliams@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>
Subject: FW: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [ITUSEONLY-LAW.FID86345] [SEC=OFFICIAL]

Dear Colleagues

We refer to the email from her Honour's Associate below.

Our clients' counsel are unable to move commitments for the remainder of this week, but remain available tomorrow. In the interests of progressing the matter expeditiously, we request that the third respondent reconsider its position in relation to listing the matter tomorrow.

Separately, we request that the Applicants provide a response to our letter dated 3 April 2025, and to our clients' proposed short minutes of order.

Regards

Rebecca Dunn/ Caitlin Meade

Rebecca Dunn
Partner | Gilbert + Tobin

+61 409 621 845
 RDunn@gtlaw.com.au

Level 35, Tower Two, International Towers Sydney
200 Barangaroo Avenue, Barangaroo NSW 2000

Gilbert + Tobin acknowledges Australia's First Nations peoples as the Traditional Custodians of this land. We pay our respects to Elders, both past and present, and extend that respect to all First Nations peoples across these lands.

This email and any attachment is confidential between Gilbert + Tobin and the addressee. If it has been sent to you in error, please delete it and notify us. Any opinion expressed in it is not the opinion of Gilbert + Tobin unless that is stated or apparent from its terms.

From: Associate MarkovicJ <Associate.MarkovicJ@fedcourt.gov.au>

Sent: Monday, 7 April 2025 10:24 AM

To: Grace O'Connor <GOConnor@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Mike Hales <Mike.Hales@minterellison.com>; Lachlan McLean <Lachlan.McLean@minterellison.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>

Cc: EA - Markovic J <EA.Markovicj@fedcourt.gov.au>; nsd5272024@fedcourt.gov.au

Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [ITUSEONLY-LAW.FID86345] [SEC=OFFICIAL]

OFFICIAL

Dear practitioners,

I refer to your email below.

The proposed dates are not suitable to her Honour. Her Honour is available to list the proceeding for case management hearing at the following times:

- 9.30 am on 8 – 11 and 29 April and 1 and 2 May 2025;
- 10 am on 28 April 2025; or
- 11 am on 30 April 2025.

Chambers kindly requests the parties confirm which of the above dates is suitable.

Kind regards

Zachary Forrai (he/him) | Associate to The Hon Justice Brigitte Markovic
Federal Court of Australia | Law Courts Building, Queens Square, Sydney NSW 2000
T. 02 8099 8368 | E. Associate.MarkovicJ@fedcourt.gov.au

From: Grace O'Connor <GOConnor@dcc.com>

Sent: Monday, 7 April 2025 10:08 AM

To: Associate MarkovicJ <Associate.MarkovicJ@fedcourt.gov.au>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Mike Hales <Mike.Hales@minterellison.com>; Lachlan McLean <Lachlan.McLean@minterellison.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <oliver.hoare@minterellison.com>

Cc: EA - Markovic J <EA.Markovicj@fedcourt.gov.au>; nsd5272024@fedcourt.gov.au

Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ITUSEONLY-LAW.FID86345]

Caution: This is an external email. DO NOT click links or open attachments unless you recognise the sender and know the content is safe.

Dear Associate

Thank you for your email below. The solicitors for the Respondents are copied in on, and have consented to, this communication.

The legal representatives for the parties are available for a case management hearing on 14 or 15 April 2025. Please let us know if those dates are not convenient for her Honour.

If we may be of any further assistance to her Honour, please let us know.

Yours faithfully

Grace O'Connor
Managing Associate



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*We extend our respect to all Aboriginal and Torres Strait Islander peoples throughout Australia and acknowledge the Traditional Owners and Custodians of the lands on which we work.
We recognise their ongoing connection to land, sea and community.*

Caitlin Meade

From: Caitlin Meade
Sent: Tuesday, 8 April 2025 10:53 AM
To: Grace O'Connor
Cc: Mike Hales; Paul Dewar; Ashley Cameron; Rohit Dighe; Kevin Huang; Daniella Lambert; Oliver Hoare; Meaghan Philp; Jessica Sapountsis; Michael Williams; Rebecca Dunn; Daisy Cullen; Molly Allen
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]

Dear Colleagues

We refer to your emails below.

The First, Second and Fourth Respondents are available for the case management hearing on the following dates:

- 10 am on 28 April 2025; or
- 9.30 am on 29 April 2025
- 11 am on 30 April 2025.

In the meantime, we note that we have not received any response to our letter dated 3 April 2025 or any indication as to when a response will be provided (which was promised yesterday). Please provide a response to that letter and our clients' proposed orders as soon as possible.

Regards
 Rebecca Dunn / Caitlin Meade

From: Grace O'Connor <GOConnor@dcc.com>
Sent: Monday, 7 April 2025 3:33 PM
To: Mike Hales <Mike.Hales@minterellison.com>; Rebecca Dunn <RDunn@gtlaw.com.au>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Daniella Lambert <Daniella.Lambert@minterellison.com>; Oliver Hoare <Oliver.Hoare@minterellison.com>; Meaghan Philp <Meaghan.Philp@minterellison.com>; Jessica Sapountsis <JSapountsis@dcc.com>
Cc: Michael Williams <MWilliams@gtlaw.com.au>; Caitlin Meade <CMeade@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>
Subject: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]

 External email >

Dear Colleagues,

In relation to the dates offered by her Honour's Associate that are convenient for the Third Respondent, we confirm that our clients' representatives are similarly available on 28, 29 and 30 April and 1 May.

Yours faithfully,

Grace O'Connor
 Managing Associate

Caitlin Meade

From: Rebecca Dunn <RDunn@gtlaw.com.au>
Sent: Thursday, 24 April 2025 7:02 PM
To: Rohit Dighe; Caitlin Meade
Cc: Mike Hales; Paul Dewar; Ashley Cameron; Kevin Huang; Daniella Lambert; Oliver Hoare; Meaghan Philp; Jessica Sapountsis; Michael Williams; Daisy Cullen; Molly Allen; Grace O'Connor
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]
Categories: Filed to ND

Dear Colleagues

We refer to your email below.

We are finalising our clients' discovery, which will be provided early next week. As you are aware, our clients are a small business and two individuals, but despite this they have devoted significant resources to completing their discovery in a timely manner, so that the case can be progressed efficiently.

By contrast, it remains unclear to us whether your clients have even started reviewing documents in answer to the categories that have been ordered to date. We note the comment in your letter (received yesterday at 6.05pm) that your firm rejects any speculation that your clients are not efficiently and expeditiously progressing their discovery. Despite this assertion, and despite our various requests, at no time have you ever positively confirmed that you have started reviewing documents for discovery. The highest your firm has put it is that your clients "continue to work in pursuit of meeting their obligations under order 3 of the 26 February 2025 order" (email from DCC, 7 April 2025 at 9.09am). It remains unclear to us what this statement actually means.

In the circumstances, we request that you confirm whether you have started reviewing documents for discovery, and provide an update on your progress. This will be relevant to the timetable to be determined at the hearing on Wednesday 30 April 2025.

Yours sincerely

Rebecca Dunn/ Caitlin Meade

Rebecca Dunn
Partner | Gilbert + Tobin

+61 409 621 845
 RDunn@gtlaw.com.au

Level 35, Tower Two, International Towers Sydney
200 Barangaroo Avenue, Barangaroo NSW 2000

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From: Rohit Dighe <RDighe@dcc.com>
Sent: Thursday, 24 April 2025 4:03 PM
To: Caitlin Meade <CMeade@gtlaw.com.au>
Cc: Mike Hales <Mike.Hales@minterellison.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron

<ACameron@dcc.com>; Kevin Huang <KHuang@dcc.com>; Daniella Lambert
 <daniella.lambert@minterellison.com>; Oliver Hoare <Oliver.Hoare@minterellison.com>; Meaghan Philp
 <Meaghan.Philp@minterellison.com>; Jessica Sapountsis <JSapountsis@dcc.com>; Michael Williams
 <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly
 Allen <MAllen@gtlaw.com.au>; Grace O'Connor <GOConnor@dcc.com>
Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664
 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]

Dear Colleagues

Please let us know when your clients will give discovery as ordered by the Court.

Yours sincerely

Rohit Dighe **Paul Dewar**
 Associate Principal Lawyer



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From: Caitlin Meade <CMeade@gtlaw.com.au>

Sent: Wednesday, 23 April 2025 5:34 PM

To: Grace O'Connor <GOConnor@dcc.com>

Cc: Mike Hales <Mike.Hales@minterellison.com>; Paul Dewar <PDewar@dcc.com>; Ashley Cameron <ACameron@dcc.com>; Rohit Dighe <RDighe@dcc.com>; Kevin Huang <KHuang@dcc.com>; Daniella Lambert <daniella.lambert@minterellison.com>; Oliver Hoare <Oliver.Hoare@minterellison.com>; Meaghan Philp <Meaghan.Philp@minterellison.com>; Jessica Sapountsis <JSapountsis@dcc.com>; Michael Williams <MWilliams@gtlaw.com.au>; Rebecca Dunn <RDunn@gtlaw.com.au>; Daisy Cullen <DCullen@gtlaw.com.au>; Molly Allen <MAllen@gtlaw.com.au>

Subject: RE: NSD527/2024 - FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS [SEC=OFFICIAL] [ME-ME.FID8693694] [ITUSEONLY-LAW.FID86345]

Dear Colleagues

We refer to our letter dated 17 April 2025, to which we have not received a response.

Despite numerous requests, the Applicants have failed to provide a substantive response to Gilbert + Tobin's letter dated 3 April 2025 or the proposed orders. The Applicants have now had 3 weeks to consider the proposed orders and no explanation for this delay has been provided.

Please confirm, by return, the Applicants' position on the orders proposed on 3 April 2025.

Our clients' rights are reserved.

Regards
 Rebecca Dunn / Caitlin Meade

Caitlin Meade (She/Her)